187

SUPREME COURT OF THE UNITED STATES.

No. 109.

SAMUEL VEAZIE, COMPLAINANT & APPELLANT,

vs.

NATHANIEL L. WILLIAMS ET AL.

APPEAL FROM THE CIRCUIT COURT U. S. FOR MAINE.

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MAINE DISTRICT, *ss:*

At a circuit court of the United States for the first circuit, begun and holden at Portland, within and for said district, on Thursday, the first day of May, in the year of our Lord one thousand eight hundred and forty-five. Present, the honorable Joseph Story, associate justice of the Supreme Court, and the honorable Ashur Ware, district judge.

SAMUEL VEAZIE, plaintiff in equity,
vs.
NATHANIEL L. WILLIAMS AND ANOTHER, defendants.

On the twenty-ninth day of July, in the year of our Lord eighteen hundred and forty-one, the following bill in equity was filed in said court by W. P. Preble, and Fessenden and Deblois, esquires, solicitors for the plaintiff, viz:

To the honorable the justices of the circuit court of the United States, for the first circuit, in and for the Maine district:

Humbly shows your orator, Samuel Veazie, of Bangor, in said Maine district, esquire, a citizen of said State of Maine, that on the first day of January, in the year of our Lord one thousand eight hundred and thirty-six, Nathaniel L. Williams, of Boston, and Stephen Williams, of Roxbury, in the State of Massachusetts, merchants, and citizens of said State of Massachusetts, were the owners, in their demesne as of fee, of two certain mill privileges, situated on Old Town falls, in the town of Orono, in said State of Maine, one of which is the same which Jackson Davis and Daniel Davis conveyed to said Nathaniel and Stephen by their deed, dated October thirty-first, eighteen hundred twenty-five; and the other, the same conveyed by Jackson Davis to said Nathaniel and Stephen, by his deed dated January twenty-seventh, eighteen hundred twenty-five; and the said Nathaniel and Stephen being so the owners of said two mill privileges, there at the Penobscot Exchange, in said Bangor, on said first day of January, offered the said two mill privileges for sale at public auction to the highest bidder, and there employed one Henry A. Head to act in their behalf as auctioneer, and instructed the said Head, by themselves or their agent, to put the said two privileges up for sale, beginning with the sum of fourteen thousand five hundred dollars for the lowest bid or minimum price; and the said Nathaniel and Stephen did further announce and prescribe, as the conditions of sale, ten per cent. of the purchase money to be paid down, twenty per cent. more when the deed should be given, and the remainder in equal payments of one and two years. And your orator complaining says, that relying upon the good faith of the said Nathaniel and Stephen in the premises, and in the good faith and honest fair-dealing of the said Head in making said sale, your orator did attend said sale, and did bid

at the auction in and by one Samuel J. Foster, his agent; and the sum of fourteen thousand five hundred dollars, the minimum price, having been bid for said two mill privileges, the said Head continued to announce that a still higher sum was offered by some other bidder, and the said Foster supposing that a higher bid had in fact been made, did make a still higher bid; and so, the said Head pretending he had received a still higher offer from some other bidder at said auction, the said Foster offered a still higher sum, until at length the same privileges were stricken off to said Foster for your orator for the sum of forty thousand dollars; and your orator thereupon, supposing the bidding aforesaid had been actually made in good faith, paid down the sum of four thousand dollars, being the ten per cent. of the purchase money, and the further sum of eight thousand dollars on the delivery of the deed, and gave his promissory note for the further sum of fourteen thousand dollars, payable in one year, with interest, which note your orator has since paid; and also gave his further note of fourteen thousand dollars, payable in two years, with interest, on which last note he has paid the interest up to January first, A. D. eighteen hundred forty; and the said Nathaniel and Stephen thereupon made and executed a good and sufficient deed of said two mill privileges to your orator for the consideration aforesaid of forty thousand dollars, so paid and secured to be paid; and your orator, at the same time, made and executed to said Nathaniel and Stephen a deed of mortgage of said two privileges, as collateral security for the payment of said two notes of fourteen thousand dollars each and one other note for nineteen hundred dollars, part of the eight thousand dollars aforesaid.

And your orator further alleges and says, that there was in fact no real bid at said auction and sale aforesaid for a larger sum than sixteen or eighteen thousand dollars, by or for any real purchaser or person there intending to purchase; but that said Head, by sham and pretended bids, as for some person unknown to your orator, run up the said Foster, by successive pretended bids of one hundred dollars at a time above the bids of said Foster, from the said sum of sixteen thousand dollars, or some such amount, to the enormous amount of forty thousand dollars; whereas your orator charges and says, that in truth there was no real bid by any person intending to purchase, or in behalf of any bona fide intended purchaser whatever, of a greater sum than sixteen thousand dollars as aforesaid, excepting only the bids of said Foster in behalf of your orator. And the said Nathaniel and Stephen, by reason of the aforesaid management and proceeding of said auctioneer, in the employment of said Nathaniel and Stephen, and by means of his sham and pretended bids at said sale, have received of and from your orator a large sum of money, to wit, the sum of eighteen thousand dollars and upwards, which, in equity and good conscience, they ought not to have received; and your orator has been greatly deceived and defrauded. And although your orator having, since the first day of January, A. D. eighteen hundred forty, first discovered the fraud practised upon him, and having thereupon notified the said Nathaniel and Stephen of the wrongful do-

ings and proceedings of the said Head in the premises, had well hoped that the said Nathaniel and Stephen would not have attempted to take advantage thereof, but would have cancelled the deeds aforesaid, and refunded the money so wrongfully obtained of your orator; yet the said Nathaniel and Stephen not only have refused to cancel and rescind the deeds aforesaid, and to repay to your orator the purchase money, or any part thereof, so received by said Nathaniel and Stephen wrongfully and unjustly, but have sued out of the clerk's office of the circuit court for the first circuit a writ of attachment, returnable to the circuit court, then next to be held at Portland, within and for the Maine district, on the first day of May last past, and caused the goods and estate of your orator to be attached, and him to be served with notice according to law; which said suit was duly entered when and where said writ was returnable, and is now pending before said court as a court of law; in which said suit the said Nathaniel and Stephen have declared upon said last mentioned note of fourteen thousand dollars, and are seeking to prosecute the same to final judgment and execution, and thereby to enforce payment of the note aforesaid from your orator. All which actings and doings of the said Nathaniel and Stephen are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator in the premises.

In consideration whereof, and for as much as your orator is remediless in the premises at and by the strict rules of the common law, and cannot have adequate relief, save in a court of equity, where matters of this and the like nature are properly cognizable and relievable. To the end, therefore, that the said Nathaniel L. Williams and Stephen Williams may, upon their respective corporal oaths, full, true, direct, and perfect answer make to all and singular the matters and things hereinbefore stated and charged, as fully, and particularly as if the same were hereinafter repeated, and they thereunto distinctly interrogated, and that, not only as to the best of their knowledge and remembrance, but also as to the best of their several and respective information, hearsay and belief; and more especially that they may answer and set forth:

Whether they did not authorize and direct the sale of the said two mill privileges at public auction, and whether Henry A. Head, of Bangor, was not employed by them as auctioneer to sell the same.

Whether the same was not put up at the minimum price of fourteen thousand five hundred dollars, or some such sum; and whether said Head was not ordered not to strike off the property, unless he could obtain that sum, and what sum; and whether said Head was not directed or authorized to bid for said Nathaniel and Stephen, until a sum equal at least to the minimum price should be bid by some other bidder.

What sum of money did they agree to pay said auctioneer prior to the sale; what sum did they actually pay him for his services; was he to be paid any sum if no sale were effected; or how was he to be paid.

What amount has the said Veazie actually paid to said Nathaniel and Stephen, principal and interest, on account of said purchase and sale.

Whether the note on which a suit is now pending before the circuit

court of the United States, for the first circuit, within and for the Maine district, is not one of the notes given to secure the payment of part of the purchase money of the said two mill privileges, sold at auction as herein stated.

Whether the whole purchase money was not paid, and secured to be paid, by said Veazie himself; and whether the deed given pursuant to said sale was not given by said Nathaniel and Stephen, directly to said Veazie; and whether it was not stated and understood, at the time of making the deed to said Veazie, and the paying and securing the purchase money, that said Foster acted simply as a bidder for said Veazie.

And that said Nathaniel L. Williams and Stephen Williams may answer the premises, and that they may be enjoined from further prosecuting their said suit at law against your orator, brought for the recovery of the amount of said note, and that they may be ordered to deliver up said note to your orator, and that the sale aforesaid may be rescinded and annulled, and that the said Nathaniel and Stephen may be ordered to pay back to your orator all such sums as they have received, by reason of the premises from your orator, with all due damages and interest, and for further relief.

May it please you honors to grant to your orator a writ of subpœna, in due form of law, directed to the said Nathaniel L. Williams and Stephen Williams, and to William Abbot, esquire, of Bangor, their attorney of record in the suit at law aforesaid, so pending in their behalf against your orator; thereby commanding the said Nathaniel and Stephen to appear before your honors at a certain day, then and there to answer the premises, and to stand and abide such order and decree therein as shall be agreeable to equity and good conscience.

By WM. P. PREBLE and
FESSENDEN & DEBLOIS.
His solicitors.

Whereupon the following writ of subpœna issued, viz:

The President of the United States of America, to Nathaniel L. Williams, of Boston, and Stephen Williams, of Roxbury, in the State of Massachusetts, both merchants and citizens of [L. S.] said State, and William Abbot, of Bangor, esquire, their attorney of record, greeting:

For certain causes offered before the circuit court of the United States, for the first circuit, as a court of chancery.

We command and strictly enjoin you, laying all other matters aside, and notwithstanding any excuse, that you personally appear before the said circuit court, next to be holden at Portland, within and for said district of Maine, on the first Monday of September next, at ten of the clock in the forenoon, to answer concerning those things which then and there may be objected against you, the said Nathaniel and Stephen, by Samuel Veazie, of Bangor, in said Maine district, esquire, a citizen of the State of Maine; and to do further and receive that which

said court shall do and order in this behalf. And this you are in no wise to omit. And have you there this writ.

Witness the honorable Roger B. Taney, chief justice of the United States of America, at Portland, the twenty-ninth day of July, in the year of our Lord one thousand eight hundred and forty-one.

JOHN MUSSEY, *Clerk*.

Which subpœna is returned on the first Monday of September, A. D. eighteen hundred and forty-one, with the following endorsement thereon, viz:

August 14, 1841.

MAINE DISTRICT, *ss*:

In obedience to this precept, I have this day served the within subpœna, by delivering an attested copy of the same for the within named Nathaniel L. Williams, and also an attested copy of the same for the said Stephen Williams, in hand to William Abbot, esquire, of Bangor, as their attorney or proctor of record.

JOHN D. KINSMAN,
Marshal of Maine.

And on said first Monday of September, upon the return of process aforesaid executed, the said defendants enter their appearance, by C. S. and E. H. Daveis, esquires, their solicitors, and said cause was thence continued to the next term. And, on the thirteenth day of December, of the same year, the said defendants answer as follows, viz:

The joint and several answer of Nathaniel L. Williams and Stephen Williams, defendants to the said bill of complaint of the said Samuel Veazie.

The said defendants, saving to themselves all benefit of exception to the said bill of complaint, for answer thereunto, or unto so much and such parts thereof as they are advised it is material and necessary for them to answer unto, answering, say: That they admit that, on or before the first day of January, eighteen hundred and thirty-six, they were the owners in fee simple of certain mill seats, and their appurtenances, situated at Old Town falls, in the town of Orono, in the said district, and of a part of the shore or bank of the Penobscot river, whereon the said mill seats were, being the same which are mentioned in the said bill; and that shortly before the day and year last mentioned, finding that real property, and especially timber lands and mill seats, adapted for the sawing of lumber, were held and sold at very high rates in the market, and esteeming it to be an extremely favorable time to make sale of the said mill seats and land, and their appurtenances, and believing them to be very valuable, and that, from their local situation, they would command a ready sale, at a large price, employed one J. Bright, who resided at the city of Bangor, not far distant from the said property, to advertise the same for sale at public auction, on the said first day of January, eighteen hundred and thirty-six.

That, a few days before the said day, when the said sale was adver-

tised to take place, these respondents, not being able to go to Bangor and make the necessary arrangements for the sale, employed and deputed one Stephen H. Williams, the son of the said respondent, Stephen Williams, to go to Bangor, and employ an auctioneer, and make all necessary arrangements for the sale But these respondents deny that then, or at any other time, they instructed the said Stephen H. Williams, or the said Bright, or any other person, or in any way intimated or suggested to them, or either of them, or to any other person, that there should be any by-bidding, or any fictitious bid at the said auction sale, or any other practice whatsoever at the said auction sale inconsistent with entire fairness and good faith; or that at any time before the said sale took place, the said Stephen H. Williams, or the said Bright, or the auctioneer employed, as hereinafter mentioned, or any other person whosoever, received from these respondents, or either of them, to the knowledge or belief of either of them, any authority, instruction, intimation, or suggestion, to run the said property up by fictitious bids, at the said auction, or to do, or cause to be done, any thing fraudulent or unfair, or inconsistent with entire and perfect good faith.

These respondents, further answering, admit, that they did affix a minimum price of fourteen thousand five hundred dollars to the said property, as is stated in the said bill, intending to protect the same from being sacrificed and sold for much less than its true value, but these respondents did not instruct their agent, or any other person, to keep the same secret; and, though they have no personal knowledge thereof, yet they believe and admit that it was well known at the said auction sale that such minimum price had been prescribed and fixed by the vendors of said property; but they are informed, and believe it to be true, that no bid was made at the said sale, by any agent of the respondents, in consequence of the fixing of the said minimum price; bids far exceeding that amount being immediately made by those desiring and intending to purchase, so that no agent of your respondents had any occasion to bid thereon to prevent the same from being sold for less than said minimum price.

And these respondents, further answering, admit, that the other conditions of sale were, ten per cent. of the purchase money to be paid down, twenty per cent. more when the deed should be delivered, and the remainder was to be paid in two equal instalments, at the end of one and two years from the sale.

And these respondents, further answering, say, that they are informed, and believe it to be true, that the said Stephen H. Williams, being empowered and commissioned by the respondents as aforesaid, proceeded to Bangor aforesaid, and, having made enquiry after a suitable auctioneer, was recommended to employ one Henry A. Head, a person who was said to be duly licensed and empowered to act in that capacity, under the laws of the State of Maine, and to be a skilful man, and much employed in the sale of lands; and thereupon the said Stephen H. Williams, supposing and believing him to be an honest man, and a good auctioneer, did employ him to act as auctioneer in making sale of

the said property at the said auction. And these respondents are informed, and verily believe it to be true, that the said Stephen H. Williams did not authorize or request the said Head, or make any suggestion or intimation to him, that he, the said Head, should or might pretend that he had received any bid which he did not in fact receive, or should or might do any act or thing which would be contrary to the most perfect good faith, or in any way inconsistent with the just rights of bidders or purchasers, at an open and fair auction sale; but, on the contrary thereof, these respondents are informed, and verily believe, and do aver, that the said Head was employed by the said Stephen H. Williams, as a public officer empowered by the laws of Maine to make auction sales, and with the full belief that the same would be conducted by him in all respects as his duty as such public officer required; and they are further informed, and believe it to be true, that the said Head was not authorized or requested by the said Stephen H. Williams, or in any way empowered, to bid up to the said minimum price for the said property, or to make any bid whatsoever thereon on account of your respondents.

And these respondents, further answering, say, that they were not present at the said sale, and have no personal knowledge thereof; but, to the best and utmost of the knowledge and belief of each of them respectively, they deny that there was no real bid at the said auction sale for a larger sum than sixteen or eighteen thousand dollars, or any such sum by or for any real purchaser or person there intending to purchase; or that the said Head, by sham and pretended bids, run up the said Foster, (in the said bill mentioned as the agent of the said complainant,) by successive pretended bids of one hundred dollars at a time, above the bids by the said Foster, from the sum of sixteen thousand dollars, or any such amount, to the sum of forty thousand dollars; or that in truth there was no real bid by any person intending to purchase in behalf of any intended bona fide purchaser, of a greater sum than sixteen thousand dollars, or any such sum.

And these respondents, further answering, admit that, after the said sale had taken place, the said Veazie did represent to these respondents that the said Foster had acted as his agent in bidding off the said property at the said auction, and exhibited very great anxiety to have the conveyance of the property made; and these respondents are informed, and believe it to be true, that there was, at the time of the said sale, a great competition for the purchase of the said property, not only on account of its own intrinsic value, but also on account of its local position in respect to other property belonging to different persons; and that the said Veazie, before the said sale, authorized the said Foster to bid as high as forty thousand dollars for his account; and that the said Veazie, immediately after the said sale, manifested great eagerness to have the bargain closed, and much anxiety lest your respondents should be induced, by an offer of a larger sum than forty thousand dollars by some other person, to refuse to complete the same. But your respondents, acting in entire good faith, and without any fraud, concealment, or misrepre-

sentation, proceeded to execute the contract aforesaid, and did execute and deliver to the said Veazie a good and sufficient deed of the said property, and received from the said Veazie the money payments in the said conditions of sale mentioned, and a further portion of the purchase money, amounting to the sum of two thousand dollars, which the said Veazie voluntarily paid in cash, and the notes of the said Veazie, payable in one and two years respectively for the residue of the said purchase money, secured by a mortgage upon the said property; and the said Veazie having paid one of the said notes, your respondents were content to allow the other to remain unpaid, though at maturity, the said Veazie continuing to pay annual interest on the same up to the first day of January, eighteen hundred and forty, when he made the last payment; though the said Veazie never gave to your respondents, nor to either of them, to the knowledge or belief of either of them, any information or notice that he deemed the sale invalid, for any reason, or would not pay the said remaining note, until on or about the 14th day of January, A. D. eighteen hundred and forty-one; and your respondents then caused a suit to be instituted on the said note, which is the same suit mentioned in the said bill of complaint.

And these respondents further answering say, that since the said sale was made, and before the filing of the said bill, more than five years and six months had elapsed; that, in the mean time, not only have your respondents lost the benefit of much evidence, which they verily believe they might have obtained, as to the occurrences at the said sale, but there has been a very great change and depreciation in the value of real property of all kinds in that part of the said district of Maine where the said property is situated; and in an especial manner has there been such change and depreciation in the value of the said property sold to the said Veazie as aforesaid. That, owing to a large increase in the number of mills in that vicinity, the growing scarcity of timber, and the concentration of timber lands into a few hands, together with the financial difficulties by which that country has been oppressed, mill seats on that part of the Penobscot river, and especially those in question, have very greatly depreciated in value, and are now intrinsically worth very much less than when the said sale was made; and these respondents are informed, and believe, that changes have been made in the said property by building on, or otherwise altering the same.

These respondents are not informed at what time in particular the said Veazie pretends to have first discovered the pretended fraud in the said bill alleg·d to have been practised at the said sale; but these respondents verily believe, that whatsoever was done at the said sale, material to the interests or right of the said Veazie, might have been known to him at any time, if the same were not actually known to him, as to which these respondents have no knowledge or information; and they pray that proof of due diligence may be required of the said Veazie. These respondents verily believe, that since the changes aforesaid have taken place in the condition and value of the said property, the said Veazie would gladly annul the said bargain and have the said property

restored to your respondents, in its altered and depreciated state, and compel your respondents to repay to him so much of the price thereof as he has paid to them, and so much money as he has seen fit for his own purposes, and pursuant to his own views and plans, to expend on the said property; but your respondents pray the judgment of this honorable court whether, after the lapse of such time, and after such great changes have taken place in the condition and value of the said property, this honorable court will set aside the said contract, more especially as the said respondents deny, to the best and utmost of their knowledge, information and belief, that the alleged fraud stated and charged in the said bill was in fact practised, or that the respondents or either of them, to the knowledge or belief of the other of them, have or has ever concealed from the said Veazie, or attempted to conceal from him, or used any means whatsoever to conceal from him, any matter or thing done, said, or transacted, at the said sale, or having any connection therewith. And these respondents further answering say, that they are informed, and believe it to be true, that previous to the said sale being made, the said Head made some enquiries of the said Stephen H. Williams, the agent of your *complainants*, as to his compensation; to which the said Stephen H. Williams answered, he would pay him what was customary; and this was the only contract, agreement, or understanding, with the said Head, in regard to his compensation.

That just before the said sale began, the said Head said in a laughing way, that he should be willing to take for his services what the property should bring over the said minimum price; but the said Stephen H. Williams, understanding the remark as not seriously intended, made no reply; and these respondents verily believe that said remark was meant as a jest; for they are informed, and verily believe it to be true, that the said Head never after recurred to it.

And these respondents are informed, and verily believe it to be true, that the said Stephen H. Williams paid to the said Head the sum of two hundred dollars as a compensation for his services as auctioneer in selling the said property; that the said payment was made after the said sale had been effected, and the sum paid was deemed reasonable by the said Stephen H. Williams, and was not disapproved by these respondents, when the same came to their knowledge; and that there was no contract, agreement, or understanding, to the knowledge or belief of these respondents, that the said Head was to receive nothing for his services, if no sale was effected, nor any other contract, agreement, or understanding, than the one above mentioned.

And these respondents annex hereto an account, showing the several sums of principal and interest, received by them from the said Veazie, and they pray that the same may be taken as part of their answer. And these respondents severally deny all and all manner of unlawful combination and confederacy; without this, that there is any other matter, cause, or thing, in the said complainant's bill of complaint contained, material or necessary for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, confessed,

traversed and avoided, or denied, is true to the knowledge or belief of these defendants. All which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct, and humbly pray that the injunction on said suit at law prayed for in said complainant's bill of complaint may be dissolved, and to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

NATHANIEL L. WILLIAMS,
S. WILLIAMS,
C. P. & B. R. CURTIS;
Of counsel.
C. S. & E. H. DAVIES,
Of counsel for defendants.

COMMONWEALTH OF MASSACHUSETTS, *Norfolk, ss:*

On this second day of December, before me, personally appeared the above named Stephen Williams, and made oath, that he, the above answer subscribed by him, has heard read, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on his information or belief; and as to those matters he believes it to be true.

JOHN I. CLARK,
Justice of the peace.

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss:*

On this first day of December, A. D. 1841, personally appeared Nathaniel L. Williams, and made oath, that he, the above answer subscribed by him, has read and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated to be on his information and belief; and as to those matters he believes them to be true.

Before me, B. R. CURTIS, *Justice of the peace in and for said Suffolk county.*

1836. Jan. 4.	By cash, draft on Suffolk Bank, for -		$10,000
July 4.	By cash, $1,900, and interest, $57 - -		1,957
1837. Aug. 4.	By 70 shares in Bank of Bangor, S. Williams - - -	$7,000	
	By 70 shares in Bank of Bangor, N. L. Williams - - -	7,000	
	By 4 shares in Bank of Bangor, J. Bright - - - -	400	
	Cash from General Veazie -	10	14,410
Note amounting to - - - -		$14,000	
Interest to January 1, 1837 - -		840	14,840

Deduct paid last January by Veazie - - -	1,050	13,790
Interest to October 2, 1837 - - - - - -		620
		14,410
By interest on the remaining note of $14,000, *a* 6 per cent. to January 1, 1840, 4 years, as per receipt given by J. Bright to Samuel Veazie - - - - - - -		3,360
		29,727

And on the thirty-first day of May, eighteen hundred forty-two, the plaintiff files the following replication, viz:

The replication of Samuel Veazie, complainant, to the joint answer of Nathaniel L. Williams and Stephen Williams, defendants.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith, that he will aver and prove his said bill to be true, certain, and sufficient in law to be answered unto, and that said answer of said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant; without this, that any other matter or thing in the said answer contained, material or effectual in law to be replied unto, confessed and avoided, traversed or denied, is true.

All which matters and things this repliant is *all* will be ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

By WILLIAM P. PREBLE, and
FESSENDEN, DEBLOIS & FESSENDEN,
His solicitors.

And at the adjournment of May term, A. D. eighteen hundred and forty-two, holden on the nineteenth day of September of the same year, it was ordered by the court, that publication of the testimony in this cause be made on the first day of October term next; on which day the following testimony is opened and filed, viz:

UNITED STATES OF AMERICA,
Maine district, ss: First circuit.

[L. S.] The circuit court of the United States, begun and holden at Portland, within and for the Maine district, on the first day of May, in the year of our Lord one thousand eight hundred and forty-two.

To Frederick Hobbs and Henry Warren, of Bangor, in said district, esquires, or to either of them, respectively.

Know ye, that reposing confidence in your wisdom, prudence, and

fidelity, we have appointed, and by these presents do authorize and empower you to take the answers to the interrogatories hereunto annexed of Ira Wadleigh, Samuel J. Foster, and Henry A. Head, witnesses to be produced and examined on the part of the complainant, to be used in a certain cause now pending in said court, wherein Samuel Veazie is complainant in equity, and Nathaniel L. Williams et al., defendants.

And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses as aforesaid to be brought before you, and each witness, while present before you, to examine carefully on oath, touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence. And the same so taken and subscribed to return, together with this commission, and your doings herein enclosed, sealed and directed to the circuit court aforesaid, next to be holden at Wiscasset, on the first day of October next.

In testimony whereof, we have caused the seal of the said circuit court to be hereunto affixed.

Witness the honorable Roger B. Taney, at Portland, this twenty-sixth day of August, in the year of our Lord one thousand eight hundred and forty-two.

J. MUSSEY, *Clerk*.

In pursuance of the within commission to me directed, I caused Samuel J. Foster, Henry A. Head, and Ira Wadleigh, the witnesses named in said commission, to be brought before me on the thirty-first day of August instant, being the day appointed by me for that purpose, and each witness while present before me, and apart from all other persons, I carefully examined on oath, touching the premises; and after having taken the examination as aforesaid, I reduced the testimony of each witness to writing, and after having carefully read over the same to him, each witness subscribed the same in my presence.

And the execution of this commission appears in the depositions of said Foster, Head, and Wadleigh, and in the subpœna to said Wadleigh; all of which are hereunto annexed.

FRED. HOBBS, *Commissioner*.

CIRCUIT COURT OF THE UNITED STATES,

For Maine district:

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Interrogatories to be administered to Henry A. Head, a witness in the above cause, on the part and behalf of the said complainant.

1st int. Do you know the parties, complainant and defendants, in the title of these interrogatories named, or either of them; if yea, how long have you known them?

2d int. *Was* you employed in the winter of 1836 to sell certain real estate in Orono, then owned by the defendants? If yea, by whom *was* you employed, in what capacity employed; describe the estate sold, the manner of the sale, to whom sold, the terms of sale, and the sum at which it was struck off to the purchaser.

3d int. If said sale was conditional, state the conditions, the sum first offered, the progress of the bidding, the names of the bidders, and the highest amount bid by any other person except the purchaser?

4th. int. State the highest sum offered as a bid by any one except the person to whom the property was struck off, and why and how it was that he continued thereafter to bid, and how the bidding advanced.

5th int. What compensation did you stipulate to receive for your services, with whom was the agreement made, what was the amount actually paid, and who paid you?

5½th int. What was the highest sum offered as a bid at said sale, which you received as a bid, except the bids offered by said Foster? [And from what price to what price can you, with certainty, say the bidding was advanced by your announcing bids against said Foster, when no bids were in fact made, and when no bid was announced by you for any person?] Part in brackets objected to by defendants.

6th int. When did you first communicate the facts stated in your answer to the fourth interrogatory, to the complainant, or to any one, who you had cause to believe would communicate them to him?

7th int. Do you know of any other matter or thing, touching the matters in question in this cause, that may tend to the benefit and advantage of the complainant in this cause? If yea, declare the same as if you had been particularly interrogated thereto.

J. P. ROGERS,
Solicitor for complainant.

Circuit court, U. S., Maine district.

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Interrogatories to be propounded to Samuel J. Foster, a witness to be examined in the above cause, on the part and behalf of the said complainant.

1st int. Do you know the parties, complainant and defendant, in the title of these interrogatories named, or either of them; if yea, how long have you known them?

2d int. Did you attend an auction sale of certain real estate, the property of the defendants, in the winter of 1836; if yea, when and where was it; what was the property sold?

Int. 3d. What was the highest sum bid for said property, by whom was the same bid, and for whom was he acting and bidding?

Int. 4th. State what instructions you received from the complainant respecting the purchase of said property at said sale, what was your first bid, how the bidding on your part advanced, and if you communicated

to any one your relation to the complainant, when, to whom, and what you did in the premises?

5th int. Who was present at said auction representing the defendants, if any one; and what did he do or say about the sale?

5½ int. What was the highest sum audibly bid at said sale against you; to what sum had the bidding advanced when the competitors at said sale ceased to be known to you, or when they ceased bidding by signs or otherwise? Did you observe the said Wadleigh during said sale, and during what period of it; and what did you observe or see done, or not done, which could enable any one to tell who was bidding against you?

6th int. Do you know any other matter or thing touching the matters in question in this case; if yea, state the same as tho' if specially interrogated thereto?

J. P. ROGERS,
For complainant.

MAINE DISTRICT, *ss:*

Circuit court, clerk's office, August 25, 1842.

Received and filed.

Attest: J. MUSSEY, *clerk.*

A true copy.

Attest: J. MUSSEY, *clerk.*

Circuit court of the U. S. for Maine district.

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Interrogatories to be propounded to Ira Wadleigh, a witness to be examined in the aforesaid cause on the part of the complainant.

1st int. Do you know the aforesaid parties, complainant and defendants, or either of them; if yea, how long have you known them?

2d int. Please state what you know respecting a sale at auction of certain property in Orono, by these defendants, in the winter of 1836, which was struck off to Samuel J. Foster?

2d int. Please state the conversation which passed between you and the defendants, or either of them, prior to said sale, what they agreed to do, who was entrusted with the management of the business, and who acted in the premises for the defendants?

3d int. Was the property sold at auction; if yea, *was* you present; did you bid; if yea, how many times, what sum did you bid, what was your highest bid, who beside you bid, and what did they bid?

4th int. Was the bidding at said sale announced in terms audibly, or in what manner was the bidding? State particularly.

5th int. Did you see the complainant at said auction; if yea, where was he? Describe his manner and appearance, and what he did.

6th int. State any conversation you had with Henry A. Head, or the

defendants' agent, at or about the time of sale, respecting the manner of said bidding and sale. State any fact tending to show that said agent, or either of the defendants, knew, prior to the delivery of their deed of the premises to the complainant, how said sale had been conducted.

Objected to as incompetent and irrelevant.

7th int. What was said property then worth, and what is the same now worth?

8th int. State what you understood was the mode of advancing the bids to the sum it was struck off at; when and from whom you so understood it. State the facts particularly.

Objected to as incompetent and irrelevant.

9th int. Have you had any conversation with the complainant, respecting any of the above facts, since the sale; if yea, when and in relation to what facts?

10th int. When did you first communicate to any one, who you had any reason to suppose would communicate the same to the complainant, that you knew any thing about the manner of said sale, and who was that person?

11th int. Do you know any other matter or thing, touching the matter of this case, favorable to the complainant; if yea, state the same as fully as if specially interrogated thereto.

11½. Whether or no you employed said Head to bid for you, what were the limits of his authority, what amount he did bid for you; and if you went up and spoke to said Head during the sale, why you went up, and the conversations of each, at that interview?

J. P. ROGERS,
Solicitor to complainant.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, CLERK'S OFFICE,
August 25, 1842.

Received and filed.
Attest: J. MUSSEY, *Clerk.*

A true copy.
Attest: J. MUSSEY, *Clerk.*

Circuit court of the United States, Maine district:

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS and al.

Cross interrogatories to be proposed to Henry A. Head, a witness to be produced and examined on the part of the complainant.

First. Do you know Stephen H. Williams, the son of one of the defendants, who acted as their agent at the time of the sale?

Second. Was he present at the sale?

Third. After the sale, and in the city of Bangor, did not the said Stephen H. Williams say to you that he saw the said Wadleigh come up and speak to you when the bids got up to thirty-nine thousand dol-

lars; and did he not ask you what the said Wadleigh then said to you; and did you not then inform him that the said Wadleigh had come to you before the sale, and said to you that the property must be his, and he wanted you to bid it off to him; and that when you had bid for him up to thirty-nine thousand dollars, he came up and spoke to you, and desired you to go no higher on his account?

Fourth. If you shall say that such conversation did occur between you and the said Stephen H. Williams, please to declare and state whether or no what you then told him was the truth?

Fifth. Have you not, at some former time, given your deposition in some case between these parties, and did you not declare and depose therein, in substance, that Ira Wadleigh told you, before the sale, that he must have the property, and that he wanted you to bid for him, and that that was the reason why you bid after the bidding had risen above fourteen thousand five hundred dollars; and, if you answer in the affirmative, please to declare and state whether or no such former testimony was true.

Sixth. How often have you talked with the said Veazie, or any agent or attorney of his, or other person in his behalf, as to the transactions detailed in your deposition, or any part thereof? And state when you last had any conversation with him, and when last with any person in his behalf, and when last with any, and what other person, on the subject.

Seventh. If in answer to the sixth direct interrogatory you have undertaken to state, when you first communicated the facts therein referred to to the said Veazie, or any one who you had cause to believe would communicate them to him, please to declare and state, fully, and entirely, and particularly, and without any reservation or omission, what you communicated, and what were each and all of your motives and reasons for making such communication.

Eighth. I ask you, on your oath, whether you have stated, fully, entirely, and particularly, each and all of your motives and reasons for making the said communication? If you have not, please to do so.

Ninth. Did the said defendants, or any agent of theirs, request you to employ any by-bidder, or to use any other than fair and lawful means to enhance the price of the said property?

Tenth. Will you now undertake to swear what sum was bid by any person, other than the said Foster for the said Veazie, and yourself for the said Wadleigh?

Eleventh. Did you not testify, in substance, in your former deposition, that you could not recollect who the bidders were above the sum of fourteen thousand five hundred dollars; that it was your impression there were several, and that you could not fix the exact sum bid by any of them?

Twelfth. Have you seen the above interrogatories and cross interrogatories, or any or either of them, or any copy of any or either of them, or their substance, or heard the substance of any, or either of them,

stated, or heard any thing said, or seen any thing written, concerning them; if yea, when, where, and by whom?

Thirteenth. At the time of said sale were you duly authorized to act as an auctioneer under the laws of Maine? If yea, annex a true copy of such license.

Fourteenth. During the said sale did the said Wadleigh come up to you and desire you to stop bidding on his account?

Fifteenth. Do you remember at what stage the bidding was when the said Wadleigh requested you to stop bidding on his account?

Sixteenth. Did you not state, in your former deposition, that you did not remember at what stage the bidding was when Wadleigh so interposed?

Seventeenth. Do you know any other matter or thing favorable to the said defendants? If yea, state the same fully.

C. P. & B. R. CURTIS,
For the defendants.

6th August, 1842.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, CLERK'S OFFICE,
August 25, 1842.

Received and filed.
Attest: J. MUSSEY, *Clerk.*

A true copy.
Attest: J. MUSSEY, *Clerk.*

Circuit court of the United States, Maine district:

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS and al.

Cross interrogatories to be proposed to Ira Wadleigh, a witness to be produced and examined on the part of the complainant.

First. Did you not say to Head, the auctioneer, before the said sale, that the property must be yours, and you wished him to bid it off for you?

Second. Did you not, at the time of the said sale, and while the said sale was going on, go up to the said auctioneer and desire him to stop bidding on your account?

Third. At the time of the said sale did you not own one or more mills or mill seats on the same or adjoining dams with the said property of the defendants; did not the said plaintiff also own one or more mills or mill seats there? Describe the relative situation of the mills and mill seats and property of the plaintiff, of the defendants, and yourself.

Fourth. Whether or no had a controversy then arisen between you and the said Veazie as to your respective rights connected with your respective mill property aforesaid; whether or no was a suit or suits then pending, or, if not, how soon, if at all, was any suit or suits commenced to which you and the said Veazie were parties touching the said rights and property?

Fifth. Whether or no was the said property of the defendants so situated, in reference to the property of the said Veazie and yourself, and in reference to the controversy between you and him, as to be more valuable to you and to the said Veazie than to other persons; did you not so esteem it at the time; did you not, at or near the time of the sale, declare to one or more persons, and in particular to Nicholas G. Norcross, that you so esteemed it; and do you not know that the said Veazie so esteemed it?

Sixth. With the knowledge you have of the relations of the said property of the defendants, to the property of the said Veazie and yourself, and of the questions then pending between you and him, have you any doubt that the said Veazie desired to obtain the said property of the defendants on account of its connection with, or relations to, the said property of yourself and the said Veazie?

Seventh. Whether or no did you desire to obtain the said property of the defendants on account of its connection with, and relations to, the said property of yourself and Veazie, and the controversy between you?

Eighth. Whether or no has the said controversy with the said Veazie about the respective rights of you and him in the said mill privileges been going on since the said sale; if yea, has any, or suit, or matters, been tried, either before any court, or reference, or other tribunal; if yea, at what time or times; and whether or no did the said Veazie then, and on such trial or trials, make any use of, or rely upon and attempt to derive any rights from his title acquired under the said defendants?

Ninth. Has any award or other decision of the said controversy between you and said Veazie been made? If yea, when? If nay, what is now the state of the suit or controversy?

Tenth. Has any compromise or adjustment of the controversy or suit between said Veazie and yourself been made; or has any proposition therefor, or any negociation respecting the same taken place between you and the said Veazie? If yea, state it, and the time when the same took place.

Eleventh. Before the said sale took place, did you not apply to Nicholas G. Norcross to join you in the purchase of the said property of the defendants; and what did you say to him as to its value and importance to you? And what passed between you on that occasion? And have you not at some time since the said sale stated to the said Norcross what sum you bid, or was bid for you at the said sale; and what sum did you name?

Twelfth. Have you not stated to William Abbot, esquire, of Bangor, in or about the month of September last, that the testimony which Head, the auctioneer, had given in his deposition, as to the amount bid by you, or for your account, was not correct, and that your testimony would differ therefrom, or to that effect?

Thirteenth. Did you not, at the same time, state to the said Abbot, that you bid, or there was bid for your account, a much larger sum than the said Head had declared in his deposition, or to that effect?

Fourteenth. Did you not decline to state to the said Abbot what you know as to the sale, on being requested by him so to do?

Fifteenth. Have you not stated, either orally or in writing, to the said Veazie, or to J. P. Rogers, esquire, or to some other attorney, agent, or friend of the said Veazie, what you knew as to the said sale, or some part of what you knew, or what your testimony would be upon the whole matter, or upon certain points? If yea, declare and state to whom, and when, in particular, you made such communication, and what it was.

Sixteenth. Please to declare and state why you made such communication, when you refused to communicate to Mr. Abbot, and, in particular, declare and state fully, particularly, and exactly, whether any inducement, promise, *to* suggestion of benefit whatever, was made or held out to you by the said Veazie, or any person acting on his behalf, or by any friend of his, or other person, to cause you to make such communication? If yea, declare and state all that relates thereto.

Seventeenth. Have you not at some time or times, and when, applied to J. Bright, of Bangor, the agent of the defendants, and requested to have a certain note, held by the defendants, and secured by mortgage on certain real estate, of which you held the equity of redemption, given up to you? If yea, what inducements did you hold out to cause the same to be done?

Objected to by complainant.

Eighteenth. Did you not, at one or more of the times referred to in the last interrogatory, say to the said Bright, that the defendants were under great obligations to you, for causing them to get a great price for the said property sold at auction, or to that effect? And at one or more of the said times, did you not say, or intimate to the said Bright, that the defendants might be injured if they did not give up the said note, or to that effect? Was the said note given up?

Nineteenth. Declare and state fully and particularly all you know, as to sending an express to Boston, immediately after the said sale, to obtain the said property of the said defendants, stating according to the best and utmost of your knowledge, memory, and belief, who was concerned therein, what the design was, how it was to be done, and what price was to be offered for the said property.

Twentieth. If in answer to the third direct interrogatory you undertake to state, that the defendants agreed to do any thing, declare with which of the defendants the agreement was made, when, where, and in whose presence you saw such defendants, and whether the agreement was oral or written.

Twenty-first. If in answer to the seventh direct interrogatory you state what the said property was then worth, declare whether you mean it was then worth that sum as an investment to a stranger, or person not interested in the adjoining mills. And was it more or less valuable to the said Veazie and yourself than to a stranger?

Twenty-second. If in answer to the tenth direct interrogatory you state to whom you first communicated that you knew any thing about

the manner of the said sale, declare and state, fully and particularly, each and all of your motives in making such communication.

Twenty-third. Have you seen or heard read, or stated, the above interrogatories and cross interrogatories, or any or either of them, or the substance of any or either of them, before the same are read to you in order by the commissioner? If yea, when and where, and by whom? Have you had any conversation with the complainant, or any person on his behalf, about these interrogatories or cross interrogatories, or about what would be asked you when your deposition is taken? If yea, when, where, and with whom?

August 8th, 1842. C. P. & B. R. CURTIS,
For defendants.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, CLERK'S OFFICE, *August* 25, 1842.

Received and filed
Attest: J. MUSSEY, *Clerk.*

A true copy.
Attest: J. MUSSEY, *Clerk.*

Depositions of witnesses produced, sworn, and examined, on the thirty-first day of August, A. D. eighteen hundred forty-two, under and by virtue of a commission issued out of the circuit court of the United Stated, for Maine district, directed to me, or to Henry Warren, esquire, for taking the depositions of certain persons therein named, in a certain cause therein depending and at issue, between Samuel Veazie, plaintiff, and Nathaniel L. Williams and al., defendants.

Samuel J. Foster, of Bangor, in the county of Penobscot, of lawful age, being produced, sworn, and examined, on behalf of the plaintiff in the title of these depositions named, doth depose as follows, to wit:

To the first interrogatory. I know Samuel Veazie; am not personally acquainted with the defendants. I have been acquainted with Veazie from my childhood.

To the second interrogatory. I did attend said auction sale in the winter of eighteen hundred thirty-six. It was held on the first day of January, eighteen hundred thirty-six, at the Penobscot Exchange, in Bangor. Certain mill privileges and appurtenances, situate near or on the Oldtown falls, was the property sold.

To the third interrogatory. The highest sum bid for said property was forty thousand dollars. I bid it, and was acting and bidding for Samuel Veazie.

To the fourth interrogatory. Previous to the sale, I was instructed by Gen. Veazie to bid to the amount of twenty thousand dollars. At the time of the sale, after the bidding had gone up to twenty thousand dollars, Mr. Veazie came to me under considerable excitement, and told me to advance and bid it off. I have no distinct recollection what my first bid was, but my impression is, that I commenced with about five thousand dollars. It advanced pretty rapidly, till it amounted to

fifteen or sixteen thousand dollars. I think, between that point and twenty thousand, the bidding was not very prompt, but it went on finally from twenty thousand, till it was struck off to me at forty thousand dollars. I think I did not communicate my relation to Gen. Veazie to any one, until the property was knocked off. I then notified Mr. Bright, the agent of the defendants, a Mr. Williams, the son of one of the defendants, and Mr. Head, the auctioneer, that I bid for Gen. Veazie, and the parties made arrangements to meet the afternoon of the same day, at the office of William Abbot, esquire, in Bangor, to settle and close the business.

To the fifth interrogatory. John Bright, who acted as agent, and a Mr. Williams, son of one of the defendants, were present, apparently acting for them. I have no recollection of their making any remark at the time of sale, nor that they did any thing, at that time, about the sale.

To the fifth and one-half interrogatory. My impression is, that I saw or heard no bidding after it got up to sixteen or eighteen thousand dollars. The biddings, audibly, or by signs, then ceased to be known to me. I observed Mr. Wadleigh, and believe he was present from the beginning to the close of said sale. My impressions are very strong that I noticed Mr. Wadleigh's biddings till it reached to sixteen or eighteen thousand dollars. After that, I am positive that there were no signs, or open bids, that would enable me to discover who, or that any one was bidding against me. I endeavored to discover if Wadleigh was doing so, and could find no sign or nodding from him, or from any one else.

To the sixth interrogatory. I know of no other matter touching the question.

S. J. FOSTER.

Subscribed and sworn before me.

FRED. HOBBS, *Commissioner*.

Aug. 31, 1842.

Henry A. Head, a witness produced, sworn, and examined on behalf of the plaintiff in the title of these interrogatories named, doth depose as follows:

To the first interrogatory. I have known General Veazie for sixteen or seventeen years. I don't know either of the defendants.

To the second interrogatory. I was employed, in the winter of eighteen hundred thirty-six, by a son of one of the Messrs. Williams, to sell certain real estate in Orono, as an auctioneer. The estate sold was mill privileges, situated in Old Town, near Old Town falls. It was put up at a minimum price of fourteen thousand five hundred dollars, but it is my impression that the minimum price was not fixed or named at the sale; but it commenced at a much lower sum, which I have now forgotten, and run on up to about eighteen thousand dollars; it might have been more or less. I then received from Samuel J. Foster bids, who was the only person that bid, to my recollection, after

the sum last named. Foster bid a hundred dollars, and I then advanced upon him; he then bid again, another hundred dollars, or some other sum; I again advanced upon him, and so on, till the bid got up to forty thousand dollars, when it was struck off to Samuel J. Foster. I don't recollect the terms of sale. A certain per cent. was to be paid down, but what it was I don't recollect.

To the third interrogatory. I don't recollect that said sale was conditional, except as I have stated. I don't recollect the sum first offered, but is my impression that it was something like five thousand dollars. I don't recollect what the bids were from that sum. My impressions are, that Samuel J. Foster, Ira Wadleigh, John B. Morgan, and, I think, James Purrington, were the bidders. There might have been others. The highest sum bid by any person other than the purchaser, was somewhere in the vicinity of eighteen thousand dollars, to the best of my recollection.

To the fourth interrogatory. I have already answered, as near as I can recollect, as to the highest sum offered as a bid, except that at which it was struck off. After other bidders stopped, he, Foster, bid a hundred dollars, or so. I then advanced upon him, and he then again bid, and so on up to forty thousand dollars.

To the fifth interrogatory. I was to receive one hundred dollars for my services, if there was a sale. I made the agreement with young Mr. Williams. He and Mr. Bright were together, I think. The sum actually paid me was two hundred dollars. I think it was paid me by young Mr. Williams.

To interrogatory five and a half. It was somewhere about eighteen thousand dollars, as I have already answered. [The actual bidders were about to that sum, as near as I can recollect. It is my impression that I advanced from that sum, or thereabouts. I cannot say for a certainty from what sum I so advanced. But I think it could not have exceeded twenty thousand dollars at which the actual bidders stopped, and my impression is, that they ceased to bid beyond eighteen thousand dollars.]

To the sixth interrogatory. I never communicated said facts to said Veazie, to my knowledge. I cannot recollect when I first communicated them to any one who would have been likely to have communicated them to Veazie. About six months ago, J. P. Rogers, esquire, came to me, and said that he had knowledge of certain facts that I knew. I did not know what he meant. He then referred to the sale of this property. I did not tell him any thing about it at that time. He called on me again; I refused, as I did not know but I might implicate myself. Afterwards, he called again, and I then told him if Veazie would give me a writing holding me harmless, I would state the facts. He said he would give me such a writing, as attorney for Veazie, which would be good. He did so, and I then went forward and gave my deposition in a case between the parties, as to the facts of the case.

To the seventh interrogatory. I do not recollect any thing further.

Cross examined.

To the first cross interrogatory. I was introduced to Stephen H. Williams a few days before the time of said sale.

To the second cross interrogatory. I think he was present at said sale.

To the third cross interrogatory. Said Williams did not, to my recollection, say to me, after the sale, and in the city of Bangor, that he saw said Wadleigh come up to me and speak to me, when the bid got up to thirty-nine thousand dollars. Nor did he ask me what Wadleigh then said to me. I might have told Mr. Williams so, but I don't recollect whether I did or not. I don't recollect that I told said Williams that when I had bid for Wadleigh up to thirty-nine thousand dollars he came up and spoke to me, and desired me to go no higher on his account.

To the fourth cross interrogatory. I have no recollection of any such conversation.

To the fifth cross interrogatory. I have given my deposition in a case between these parties. I did state in that deposition that Wadleigh came to me before the sale, and wished me to strike the property off for him, and, of course, I should have to advance on other bidders for him; but I don't recollect whether Wadleigh requested me to bid for him or not. I did say that that was the reason why I bid after the bidding had arisen above fourteen thousand five hundred dollars. Such testimony certainly was true, to the best of my recollection.

To the sixth cross interrogatory. I never had any conversation with Veazie on the subject, to my recollection, nor with any agent or attorney of his, except Mr. Rogers, as I have before testified. My last conversation with Rogers was, I think, when I gave my deposition, and while he was here in Bangor. On reflection, I do recollect having a conversation with John Appleton, esquire, who came to me, in behalf of the defendants, and asked me if I was willing to answer certain questions in regard to this case. I told him I was willing. He asked me about the deposition I had given, and some other facts, which I do not now remember; this was about a fortnight or three weeks ago.

To the seventh cross interrogatory. I cannot positively say now what I then communicated to Mr. Rogers, but probably the facts detailed in my deposition, and to which I would refer. I probably told him that Stephen H. Williams came to me, in December, eighteen hundred thirty-five, a day or two before the sale, and wanted me to sell that property, and that his father and uncle had fixed a minimum price at fifteen thousand dollars. I told him that I did not think the property would bring that amount, and wanted him to fix the sum at twelve thousand dollars. He said he could not do that, but after some time talking, he said he would take the responsibility of taking off five hundred dollars; and, if I could obtain fourteen thousand five hundred dollars, to let it go; that the minimum price was not fixed at the time of sale, but that it commenced much lower than that. I also mentioned to him

that Mr. Wadleigh came to me before the sale, and wanted me to strike the property off to him; that I then told Wadleigh that the minimum price was fixed, and that it could not be sold for less; that Wadleigh said it would not bring that amount, and left me by saying he wanted me to strike it off to him; which were my reasons for moving on, after it got above fourteen thousand five hundred dollars; that Wadleigh came to me while the sale was going on, and said, if you are bidding for me, for "God-sake, stop;" that I did not make Wadleigh any reply, but went on; and that I did not recollect the amount that it stood at, at the time Wadleigh spoke to me. I probably stated to him, likewise, that Foster was the only bidder, after it amounted to about eighteen thousand dollars. This is, as near as I can recollect, my conversation with Rogers. I had no other motive for communicating to Mr. Rogers the foregoing facts, than that he might take my deposition, if he thought them of any consequence.

To the eighth cross interrogatory. I have stated all my reasons and motives for making such communication, as near as I can recollect.

To the ninth cross interrogatory. Said defendants, nor any agent of theirs, did not request me to employ any by-bidder at the sale, nor to use any other than fair and lawful means to enhance the price of the said property.

To the tenth cross interrogatory. I will not now undertake to swear what sum was bid by any person other than said Foster for said Veazie, and myself for Wadleigh, otherwise than I have already done, that it was in the vicinity of eighteen thousand dollars.

To the eleventh cross interrogatory. I stated in my former deposition, I think, that I had an impression that James Purington and John B. Morgan bid after it arose to fourteen thousand five hundred dollars, and that there might have been others. I don't recollect that I there stated that I could not fix the exact sum that any person bid; I said I could not recollect what Wadleigh bid, or any person in his behalf.

To the twelfth cross interrogatory. I have not; I had no knowledge of them in any way.

To the thirteenth cross interrogatory. I think I was duly authorized to act as an auctioneer; I held a license from the city authorities; I will annex a true copy of my license if I can find it. On examination, I cannot find the original license.

To the fourteenth cross interrogatory. Yes, he came up to me, and said, if I was bidding for him to stop.

To the fifteenth cross interrogatory. I don't recollect to what amount the bids had risen when Wadleigh so requested me to stop.

To the sixteenth cross interrogatory. I did so state in my former deposition.

To the seventeenth cross interrogatory. I know nothing further that I now recollect. HENRY A. HEAD.

DISTRICT OF MAINE, *ss:*

On this thirty-first day of August, A. D. eighteen hundred forty-two,

the aforesaid deponent was examined, cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

Ira Wadleigh, of Oldtown, in the county of Penobscot, of lawful age, being produced, sworn, and examined in behalf of the complainant in the title of these interrogatories mentioned, doth depose as follows, to wit:

To the first interrogatory. I know the parties in this suit. I have known Veazie fifteen or sixteen years, and the Messrs. Williams eight or ten years, or more.

To the second interrogatory. I know the property, and that it was sold to Samuel J. Foster at forty thousand dollars. About a month before the sale I was in Boston, and called on Nathaniel L. Williams to see if he would sell me the property. He said they thought of putting it up at auction, and would let me know in a few days, as soon as he could see his brother Stephen. I advised him to sell, so that mills could be built that winter. On coming out of Boston, I met Stephen Williams' son, Stephen H. Williams, who was coming down to see to selling the property; and after he reached Bangor, I saw him here, and talked with him about the property; and asked him if he would sell it at private sale. He told me he would sell it for fifteen thousand dollars or thereabouts; I think he told me so. Afterwards it was advertised to be sold at the Exchange in Bangor. Stephen H. Williams appeared to be acting for the defendants.

To the third interrogatory. The property was sold at auction; I was present at the sale, and bid I cannot say how many times, nor what sums I bid; but somewhere from fifteen to twenty thousand dollars. I don't remember bidding over twenty thousand dollars, although I might have done so. Nicholas G. Norcross bid; I think Myrick Emerson bid, and Samuel J. Foster, and some others; but I do not recollect who. I cannot tell how much they bid, but from where it started up along, but how far I cannot say.

To the fourth interrogatory. When they first commenced the bids were audible, and properly made; but after they got up to twenty thousand dollars and over, it was by signs.

To the fifth interrogatory. I saw Gen. Veazie at the auction; he was about the room there; and was walking back and forth in the long entry part of the time. I did not see anything very particular in his manner. I did not mind much about it.

To the sixth interrogatory. I talked with Head before the sale, and told him I wanted to buy it. He asked me how high I would go. I told him to seventeen thousand dollars, if I could not get it for less. I agreed with Norcross to take it at that sum; and told Head that I would hold my pencil between my thumb and forefinger, and turn it for a bid. I soon went up to twenty thousand and upwards, and stopped. I found the bidding was going on without my nodding, turning my pencil, or

making any sign, and stepped up to Head, and asked him if he was bidding for me. He made no answer; and I said "for God sake don't bid any more for me;" and went and sat down; and bid no more. After the sale I had a conversation with young Williams; and, I think, told him how the bidding went on; but he must have seen it, as he was sitting behind, and close to Mr. Head. He said he was surprised at the sale; that the property sold for much more than they expected.

To the seventh interrogatory. There were four privileges; and they were not then actually worth more than two thousand dollars a privilege. I don't believe it would sell to-day for four thousand dollars at auction; the whole property, that is, the four privileges.

To the eighth interrogatory. I could not see any bids from any one except Foster after it got up to twenty thousand dollars. I saw Foster make nods after that. I understood that Head advanced the same sum that Foster bid, and so advanced upon him. Head would turn his head round the room, and announce a bid, and take another one from Foster. This was the way it was done, as I understood it from looking on, and not from being told so by any one.

To the ninth interrogatory. I don't know as I have had any conversation with the complainant about it since the sale.

To the tenth interrogatory. I cannot answer; I do not know.

To the eleventh interrogatory. I cannot state anything further.

To interrogatory eleven and a-half. I told Head not to go over twenty thousand unless I made a signal or a bid. I think that was it. I don't know what amount he bid for me. I went up to Head, and spoke to him because I did not know that he was bidding for me; and if he was, I wanted to stop him. I did not go up to him more than once. Head did not say anything. I told him, if he was bidding for me, to stop. But he kept on advancing.

Cross examined.

To the first cross interrogatory. No; I do not remember saying any such thing to Head.

To the second cross interrogatory. Yes, I went up to him and told him to stop bidding on my account, if he was then bidding on my account.

To the third cross interrogatory. I owned half of one mill, or two saws in common and undivided with Veazie, at the time of said sale, on the same dam and adjoining. Veazie owned more mills on the same falls below the dam. The defendants owned two privileges on the shore, and two on the stream; and Veazie's and my privilege laid between them. Veazie had built six saws outside and below the defendants' privileges. We had six saws outside of Veazie's six, that is, myself and Purrington and others.

To the fourth cross interrogatory. A controversy had then arisen between me and Veazie, respecting said rights. Suits were then pending between us respecting said property.

To the fifth cross interrogatory. I don't know as said property was

more valuable to Veazie and myself than to other persons, on account of our property, or the controversy between us. It might have been more convenient for us. I did not esteem it at that time to be worth more to me than to any body else. No; I don't remember so declaring to any other person, or to Norcross, that I so esteemed it. I do not know how Veazie esteemed it.

To the sixth cross interrogatory. I think it likely he was desirous of buying it, and thought so at the time, for the reasons suggested in the question.

To the seventh cross interrogatory. I don't know of any particular wish about it, only if I could get the Williams' property, I should have more control of the dam.

To the ninth cross interrogatory. There has been no award or decision of said controversy between myself and Veazie, that I know of. It is now before the referees.

To the tenth cross interrogatory. There has been no compromise or adjustment of said controversy between me and Veazie, nor has there been any proposition therefor, or negotiation respecting the same, between us.

To the eleventh cross interrogatory. I did so apply to Nicholas G. Norcross to join me in said purchase. I don't recollect what I said to him as to its value and importance to me. I think Norcross said he would take a quarter of it at seventeen thousand dollars. I don't remember having said to Norcross since said sale, what sum was bid by or for me

To the twelfth cross interrogatory. I said to him, Mr. Abbott, once in his office, when he told me what Head's deposition was, that I guessed it was not all right; that was just about the language I used.

To the thirteenth cross interrogatory. I don't remember having said to Mr. Abbott at any time, that my bid, or any bid for me, was larger than the sum stated by Head in his deposition, or any thing to that effect, to my recollection.

To the fourteenth cross interrogatory. I did decline stating to said Abbott what I knew respecting said sale.

To the fifteenth cross interrogatory. Rogers once asked me about it; I told him very little about it; and said to him, if they wanted my testimony in regard to the sale, I would give it when on the stand. I never told Veazie, or any other person, the particulars. I did say to Rogers it was not all right

To the sixteenth cross interrogatory. My communication came up in conversation with Rogers, who was my counsel against Veazie, when talking about our case. I had no inducement, promise, or expectation of advantage, from making said communication to Rogers. We were laughing about the hoax upon Veazie, and Rogers asked me how it was. I told him it was not all right, but declined to give him the particulars.

To the seventeenth cross interrogatory. I have applied to said Bright to have said note given up to me. I told Bright I had already paid as

much as the property was worth, and that the defendants had made money enough out of Veazie's and my quarrel, to afford to give me up that.

To the eighteenth cross interrogatory. I said to Bright once or twice, and told him that our quarrel had enabled the defendants to get a great price out of Veazie for said property. I never said to Bright that the defendants might be injured if they did not give up said note; nor any such thing. Said note was not given up. Bright asked me why I asked for it. I told *me* I had paid enough for it, and that they had made money through me, and that if the truth should come out in regard to said sale, it would blow it all to atoms.

To the nineteenth cross interrogatory. George W. Stanley, of Augusta, and myself, sent John B. Morgan, by express, to Boston, on our joint account, to buy the property of the defendants, after the auction sale. No other persons but us three were concerned therein. We made up our minds that the defendants would sell it for from fifteen to twenty thousand dollars; and Morgan was directed to offer them twenty thousand dollars for the property. We thought we might make twenty thousand dollars by the speculation, and did not suppose they would hesitate a moment to take twenty thousand dollars, and take the risk of the auction sale.

To the twentieth cross interrogatory. I have stated no agreement with the defendants.

To the *twentieth* cross interrogatory. I then thought, as property stood through the country, that said privileges would be worth that sum for a capitalist to purchase, with a view to invest money. It was no otherwise more valuable to myself or Veazie, than as it gave, or would give, more control to the property owned by us respectively.

To the twenty-second cross interrogatory. I have not answered the tenth interrogatory as supposed. All I said was to Rogers and Bright; and I have stated how I happened to mention the subject to them.

To the twenty-third cross interrogatory. No; I have not. Nor have I had any conversation with Veazie, or any one in his behalf, about the interrogatories. I did not know when my deposition was to be taken, till I was notified of it by the commissioner, nor what questions would be asked me. IRA WADLEIGH.

DISTRICT OF MAINE, *ss:*

On this thirty-first day of August, A. D. eighteen hundred forty-two, the aforesaid deponent was examined, cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

DISTRICT OF MAINE, *ss: First circuit.*

The President of the United States of America, to the marshal of our said district of Maine, or his deputy, greeting:

We command you, that immediately, without delay, you summon

202.

Ira Wadleigh, of Oldtown, in the county of Penobscot, merchant, within our district of Maine, if he may be found in your precinct, to appear before Frederick Hobbs, a commissioner of the circuit court of the United States, within and for said district, at the office of said commissioner, in Bangor, on the thirty-first day of August, instant, at three o'clock in the afternoon, then and there to give his deposition, to be used in an action or suit in equity, pending in our said court, next to be holden at Wiscasset, within our said district of Maine, on the first day of October next, wherein Samuel Veazie, of Bangor, is plaintiff, and Nathaniel L. Williams, and another, are defendants.

Hereof fail not, and make return of this writ, with your doings hereon.

Witness, Roger B. Taney, esquire, at Portland, the thirtieth day of August, in the year of our Lord one thousand eight hundred and forty-two.

J. MUSSEY, *Clerk.*

DISTRICT OF MAINE, *ss: Penobscot county.*

August 31*st*, 1842.

I have summoned the within named Ira Wadleigh, by giving him in hand a true and attested copy, and paying him two dollars $\frac{45}{100}$ for travel and attendance.

HENRY A. HEAD,
Deputy marshal.

UNITED STATES OF AMERICA,
Maine district, ss: First circuit.

The circuit court of the United States, begun and holden at Portland, within and for the Maine district, on the first day of May, in
[L. S.] the year of our Lord one thousand eight hundred and forty-two.

To Frederick Hobbs and Henry Warren of Bangor, in said district, esquires, or to either of them respectively.

Know ye, that reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do authorize and empower, you to take the answers to the interrogatories hereunto annexed, of Myrich Emerson, Levi Young, Richard Moore, and Isaac Smith, witnesses to be produced and examined on behalf of the plaintiff, to be used in a certain cause now pending in said court, wherein Samuel Veazie is plaintiff in equity, and Nathaniel L. Williams and al. are defendants.

And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses as aforesaid to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce, or cause the same to be reduced, to writing, and to be subscribed by each of said witnesses in your presence;

and the same, so taken and subscribed, to return, together with this commission, and your doings herein enclosed, sealed and directed to the circuit court aforesaid, next to be holden at Wiscasset, on the first day of October next.

In testimony whereof we have caused the seal of the said circuit court to be hereunto affixed.

Witness the honorable Roger B. Taney, at Portland, this twelfth day of September, in the year of our Lord one thousand eight hundred and forty-two.

JOHN MUSSEY, *Clerk.*

In pursuance of the within commission to me directed, I appointed the fifteenth day of September, A. D. eighteen hundred forty-two, for taking the testimony of the witnesses therein named, and caused them to be brought before me for that purpose; and each witness, while present before me, and apart from all other persons, I examined carefully on oath touching the premises. And after taking the examination aforesaid, I reduced the same to writing, and after carefully reading the testimony of each witness in his presence and hearing, I caused the same to be by him subscribed in my presence.

The execution of this commission appears in the depositions of Levi Young, Isaac Smith, Myrich Emmerson, and Richard Moore, hereunto annexed.

FRED. HOBBS,
Commissioner.

CIRCUIT COURT UNITED STATES, *Maine district:*

SAMUEL VEAZIE,
vs.
NATHANIEL L. WILLIAMS & al. } In equity.

Interrogatories to be proposed to Myrich Emerson, Levi Young, Richard Moore, and Isaac Smith, witnesses to be sworn and examined on the part of the complainant.

1st. Do you know the parties above named, or either of them; and how long have you known them?

2d. *Was* you present at a sale of certain real estate by the defendants at Bangor, in January, 1836; if yea, how was the same sold; to whom, by whom, for what price, and who was announced as the purchaser?

3d. If you bid at said auction, or were interested in the bids of others, state how and with whom you were so interested, and what you and they did?

4th. Did you see Ira Wadleigh at said sale; if yea, state if you heard him bid; what was his highest bid; whether or no you observed him, how and with what particularity you observed him, and what was your motive in thus observing him?

5th. State particularly the commencement and progress of the bidding; the persons who bid; the sums bid; the highest sum bid audibly by any person except S. J. Foster; and if you saw said Wadleigh go up and speak to the auctioneer, at what sum did the property then stand, and with what distinctness you now recollect the facts?

6th. Did you know who were the bidders at said auction; state what were your endeavors to ascertain who were the bidders, and whether or no, if said Wadleigh had bid above a given sum, and what sum, by signs or nods or audibly, so that the same could have been heard or seen by Nicholas G. Norcross and others, you must not have seen or heard it?

7th. Do you know any other matter or thing which may be a benefit to the parties at issue, or either of them; if yea, state the same fully and at large in your answer?

J. ROGERS,
For complainant.

The defendants decline putting any cross interrogatories.

C. P. & B. R. CURTIS,
Attorneys for defendants.

MAINE DISTRICT, *ss:*
Circuit court, clerk's office, September 12, 1842.

Received and filed.

Attest: J. MUSSEY,
Clerk.

A true copy from the original.

Attest: J. MUSSEY,
Clerk.

Depositions of witnesses produced, sworn, and examined on the fifteenth day of September, A. D. 1842, under and by virtue of a commission issued out of the circuit court of the United States, directed to me, or Henry Warren, esquire, for taking the depositions of witnesses therein named, in a certain cause there depending, and at issue between Samuel Veazie, plaintiff, and Nathaniel L. Williams and another, defendants, on the part and behalf of the plaintiff.

Levi Young, of Oldtown, of lawful age, being produced, sworn, and examined, on behalf of the plaintiff in the title of these interrogatories mentioned, doth depose as follows:

To the first interrogatory.

I don't know the defendants; I have been acquainted with General Veazie for twenty years.

To the second interrogatory.

I was present at said sale, in January, 1836, at Bangor. It was sold at auction to Samuel J. Foster for Gen. Veazie. Henry A. Head was auctioneer. The sum for which it was sold was forty thousand dollars. If I recollect right, Samuel J. Foster was announced as the purchaser.

To the third interrogatory.

I did not bid, nor was I interested in any bid.

To the fourth interrogatory.

I saw Ira Wadleigh at said sale. I could not say as I heard him bid out loud; I think Wadleigh bid by signs something like eighteen thousand dollars. I observed Wadleigh very particularly, being anxious

to see who bid. I expected Wadleigh went down from Old Town to bid it off, and I watchod to see if he was bidding.

To the fifth interrogatory.

I don't recollect the sum at which the sale began; but it strikes me it was from three to five thousand dollars. The persons whom I now recollect as having bid, were Purington, Veazie, Wadleigh, and Foster. They went along from one hundred to three hundred, and then five hundred dollars to a bid. I think the highest sum bid audibly, was sixteen thousand dollars by Purrington. Foster bid loud several times, but mostly by nodding. I saw Wadleigh go up and speak to the auctioneer when the property stood, as near as I can recollect, at about twenty thousand dollars; I cannot be positive as to the sum, but I well remember Wadleigh's going up and speaking to the auctioneer after it had got up to sixteen or eighteen thousand dollars.

To the sixth interrogatory. I know the persons I have named as bidding, but I cannot say as I know all that bid. I was in his room during the sale, and watched the auctioneer to see where he took his bid from; after he got up to between eighteen to twenty thousand dollars, I was completely at a loss to know who did bid; I think if Wadleigh had bid either by signs, or audibly, after it got up to that sum, I should [have] seen or heard it, if any one could, for I had my eye on him, and watched him snug; he went out of the room once during the sale.

To the seventh interrogatory. I don't know as I can state any thing further.

LEVI YOUNG.

DISTRICT OF MAINE, *ss:*

On this fifteenth day of September, A. D. 1842, the aforesaid deponent was examined, and cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

Isaac Smith, of Old Town, of lawful age, being produced, sworn and examined, on behalf of the complainant, in the title of these interrogatories mentioned, deposes as follows:

To the first interrogatory. I have known Gen. Veazie about fifteen years; I do not know Messrs. Williams.

To the second interrogatory. I was present at said sale; it was sold at public auction; I believe it was struck off to Sam. J. Foster. Henry A. Head was the auctioneer, I think it was struck off for forty thousand dollars; Gen. Veazie was announced as the purchaser.

To the third interrogatory. I did not bid, nor was I interested in any bid at the auction.

To the fourth interrogatory. I saw Ira Wadleigh at the sale; I think I heard him bid, I am not able to say, but I should think in the neighborhood of eight thousand dollars; I could not say certain, but I think Wadleigh did not bid over eight thousand dollars; I observed him, for I supposed he was the man bidding against Foster, as there was an ex-

citement between him and Veazie; I observed him till it got up very high, and then I could not tell who was bidding.

To the fifth interrogatory. I think the bidding began low, lower than four thousand dollars, but I am not certain, and went up something about fifteen thousand dollars, when there was a halting, not a suspension exactly. I should think Foster, Purrington, and Wadleigh were the bidders. I think Purrington bid once or twice; I cannot state the sums bid except Purrington's, which I should think was between sixteen and seventeen thousand dollars; I spoke to him, and told him he was running a very great risk in giving that amount for that property. I think Purrington's was the highest audible bid that I recollect of. I saw Wadleigh go up and speak to the auctioneer; he appeared to be very busy till after that, when he went back to the back side of the room. The property stood above fifteen thousand dollars, from fifteen to seventeen thousand dollars, when Wadleigh stepped up to auctioneer; I recollect this very well, as though it were yesterday.

To the sixth interrogatory. The persons named were bidders at said auction, I am not sure, but John B. Morgan bid once; I don't know that I took any particular notice of who the bidders were, or made any particular endeavors to find out; I think I should have seen or heard any bid by Wadleigh, if Norcross or any one else could have seen or heard it.

To the seventh interrogatory. I don't think of any thing further that I can state.

ISAAC SMITH.

DISTRICT OF MAINE, *ss:*

On this fifteenth day of September, A. D. 1842, the aforesaid deponent was duly cautioned, examined, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

Myrick Emmerson, of Orono, of lawful age, being produced, sworn, and examined, on the behalf of the complainant in the title of these interrogatories mentioned, deposes as follows:

To the first interrogatory. I have known Samuel Veazie since 1823 or '24; I do not know the defendants.

To the second interrogatory. I was present at said sale; it was sold by auction, Henry A. Head was auctioneer; it was struck off to Sam'l J. Foster for forty thousand dollars; Gen. Veazie was announced as the purchaser.

To the third interrogatory. I bid at the auction for Wadleigh and Purrington; I could not say positively, but it was a little short of twenty thousand dollars that I bid.

To the fourth interrogatory. I saw Ira Wadleigh at the sale; I think I heard him bid; I should think his highest bid was short of ten thousand dollars; I stood right by him while the sale was going on, and observed him; I observed him because he was very anxious to get the

property, and I was desirous he should get it, for I had made proposals to him to build mills on the property if he became the purchaser.

To the fifth interrogatory. I could not say who was the first bidder; the bidding began at not over a thousand; it went up very rapidly till it got up to sixteen or seventeen thousand dollars; there then seemed to be a holding on; then it went on again up to forty thousand dollars. The persons bidding from the commencement were Isaac Smith, James Purrington, N. G. Norcross, and I think Theo. S. Brown also bid, till it got up to about twenty thousand dollars; after that I saw no one bid, or heard any sum named, only by the auctioneer. The highest sum bid audibly was by James Purrington, and was about fifteen thousand dollars, as near as I can recollect; it seems to run in my mind that I heard Isaac Smith bid audibly about twenty thousand dollars, but I would not be positive about it. I saw Wadleigh go up to the auctioneer and speak to him, after it had gone over twenty thousand dollars I think, I feel pretty confident of it.

To the sixth interrogatory. I knew who the bidders were till after it got up to over twenty thousand dollars; after that there seemed to be a good deal of inquiry to know whom Foster was bidding against; I asked Mr. Wadleigh who was bidding against Foster? He did not know; if Wadleigh had bid over the twenty thousand by signs, or audibly, so as to have been seen or heard by Norcross, or any one else, I must have seen or heard him, for I stood where I could have put my hand on Wadleigh and Norcross, and the auctioneer, pretty much all the time.

To the seventh interrogatory. I know nothing further that I now recollect, unless it be that, at commencement of the bidding, the bids were from twenty-five to fifty, and one hundred dollars, and soon up to about twenty thousand; then the auctioneer advanced more rapidly, and I think the last ten thousand were five hundred dollar bids, or nearly all of them. The auctioneer made a great deal of sport.

MYRICH EMMERSON.

DISTRICT OF MAINE, *ss:*

On this fifteenth day of September, A. D. 1842, the aforesaid deponent was examined, cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me,

FRED. HOBBS,
Commissioner.

Richard Moore, of Old Town, of lawful age, being produced, sworn, and examined, on behalf of the plaintiff in the title of these interrogatories mentioned, deposeth as follows:

To the first interrogatory. I know the plaintiff, Gen. Veazie, and have known him since 1813; I do not know the defendants.

To the second interrogatory. I was present at said sale; it was sold at auction; it was said that Gen. Veazie was the purchaser for forty thousand dollars; H. A. Head was the auctioneer; Sam. J. Foster was declared as the purchaser.

To the third interrogatory. I did not bid at the auction, nor was I interested in any bids.

To the fourth interrogatory. I saw Ira Wadleigh at the sale; I heard him bid; there was considerable bidding aloud when they first began; and I think I heard Wadleigh bid loud, but I cannot say what sum. It is my impression that he bid as high as fourteen or fifteen thousand dollars. I cannot say that I took any more notice of Wadleigh, while bidding, than of others. I had no particular motive to do so. It was a public sale, and I was looking on.

To the fifth interrogatory. I think the bidding commenced somewhere about ten thousand dollars; but I could not say positively as to that. I noticed John B. Morgan, Sam'l Veazie, Ira Wadleigh, and, I think, Hoskins, among the bidders along at first. I could not say what the bids were, but it strikes me they raised the bid five hundred dollars at a bid. I cannot say positively, but it runs in my mind that the highest sum I heard bid was seventeen or eighteen thousand dollars. I I cannot say by whom it was bid. I have no distinct recollection of seeing Wadleigh in particular go up and speak to the auctioneer.

To the sixth interrogatory. The persons I have already named I suppose were the bidders, also Sam'l J. Foster. They all bid out openly till it got up to nearly twenty thousand dollars; and I think Foster bid openly till it was struck off to him. I think I understood who was bidding till it got up to twenty thousand dollars. There was then a pause, and afterwards the bidding went on; but I could see nobody bidding but Sam'l J. Foster after that. I think I must have seen or heard Wadleigh bid, after it rose to twenty thousand dollars, if he had bid.

To the seventh interrogatory. I know nothing further.

RICHARD MOORE.

DISTRICT OF MAINE, *ss:*

On this fifteenth day of September, A. D. 1842, the aforesaid deponent was duly cautioned, examined, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

UNITED STATES OF AMERICA,
Maine district, ss: First circuit.

[L. S.] The circuit court of the United States, begun and holden at Portland, within and for the Maine district, on the first day of May, in the year of our Lord one thousand eight hundred and forty-two.

To Frederick Hobbs, of Bangor, in Maine district, esquire, or to Henry Warren, of said Bangor, esquire, respectively:

Know ye, that reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do authorize and empower, you to take the answers to the interrogatories hereunto annexed of Nicholas G. Norcross, Waldo T. Pierce, Charles Ramsdell, John

Bennoch, junior, Ebenezer Webster, Amos Davis, George W. Ingersoll, N. O. Pillsbury, John McDonald, John Bright, and Wm. Abbott, witnesses to be produced and examined on behalf of the defendants, to be used in a certain cause now pending in said court, wherein Samuel Veazie is plaintiff in equity, against Nathaniel L. Williams & al., defendants. And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses as aforesaid to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence. And the same so taken and subscribed to return, together with this commission, and your doings herein enclosed, sealed and directed to the circuit court aforesaid, next to be holden at Wiscasset, on the first day of October next.

In testimony whereof, we have caused the seal of the said circuit court to be hereunto affixed.

Witness, the honorable Roger B. Taney, at Portland, this twentieth day of August, in the year of our Lord one thousand eight hundred and forty-two.

J. MUSSEY, *Clerk*.

In pursuance of the within commission to me directed, I caused Nicholas G. Norcross, Waldo T. Pierce, Charles Ramsdell, John Bannock, junr., George W. Ingersoll, Nehemiah O. Pilsbury, John McDonald, John Bright, and William Abbott, nine of said witnesses named in said commission, to be brought before me on certain days by me appointed for that purpose, as certified at the foot of each deposition; and each witness, while present before me, and apart from all other persons, I carefully examined on oath touching the premises; and after having taken the examination as aforesaid, I reduced the testimony of each witness to writing, who then and there subscribed the same in my presence, after I had carefully read the same to him.

And the execution of this commission appears in the depositions of said Norcross, Pierce, Ramsdell, Bennoch, jr., Ingersoll, Pilsbury, McDonald, Bright, and Abbott. The said Davis being absent from home, and the said Webster not being produced, their depositions were not taken.

FRED. HOBBS,
Commissioner.

CIRCUIT COURT UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS & al.

Interrogatories to be proposed to Nicholas G. Norcross, of Bangor, a witness to be produced, sworn, and examined on the part of the defendants in said cause.

First. What is your name, age, occupation, and place of abode? Do you know the parties to this suit, or either, and which of them?

Second. Whether or no are you acquainted with the mill seat and estate which were sold at public auction by Henry A. Head, by order of the defendants, in the winter of 1835–'6? Were you or not present at the said sale? Whether or no did you bid at the said sale?

Third. Do you know Ira Wadleigh, of Bangor, and how long have you known him? Prior to the said sale did you have any conversation with said Wadleigh on the subject of purchasing the said real estate? Did said Wadleigh make any proposal to you to join with him in the same; and what was it? Was any, and what, sum named by him as a price to be bid for said estate? Was anything, and what, said by Wadleigh indicating his purpose to have said estate knocked off to him?

Fourth. During the time of the said sale at auction, did you observe the conduct and actions of the said Wadleigh, Veazie, and Samuel J. Foster? Whether or no did you hear them bid for the said estate, or see them nod, or make any other and what signs, used at auctions, to Mr. Head, the auctioneer? If yea, at what period of the biddings did you see or hear any bid or bids given by the said Wadleigh, Veazie, or Foster? What sum was declared by the auctioneer immediately after the bids, if any were so given by said Wadleigh, Veazie, or Foster? Describe their acts and declarations in bidding, if any.

Fifth. Whether or no have you, since the said sale, heard the said Wadleigh declare or state, or intimate the highest sum of money which was bid by him for said estate, or by any other person for or upon his account, and behalf? If yea, what was the said sum, and by whom was it bid; and did he say anything, and what, as to its being a fair sale, or otherwise?

Sixth. Whether or no do you know by any and what means that said Wadleigh authorized the said Head, the auctioneer, to bid on his, Wadleigh's, behalf, for the said mill property and other estate sold as aforesaid; and whether or no do you know that said Head actually bid one or more times for said property on behalf of said Wadleigh; and if yea, what are your means of knowledge, and what was the highest or largest price so bid by said Head for said Wadleigh?

Seventh. Whether or no are you acquainted with the property sold at the time aforesaid, and its relations to other mill seats, and property belonging to the said Ira Wadleigh, and to others owned by Samuel Veazie, the complainant in this suit? Situated as the property then sold was, whether or no was it then more or less valuable to either of the said persons than to a stranger?

Eighth. Whether or no do you know that both, or either, and which of the said persons, was desirous of becoming the owner of the property sold by the defendants as aforesaid?

Ninth. Whether or no do you know that, before the time of the sale of the said property, a controversy had arisen between said Wadleigh and Veazie touching their respective mill privileges? Whether or no would the possession of the property sold by the defendants, if the

same were owned by either of the said persons, give to the owner any and what advantages in said controversy, over the other? Declare fully.

Tenth. Whether or no was property in and near Bangor, at the time of the said sale, and especially mill property, of greater or less value than it now is? Whether or no was mill property held and rented at higher or lower rates at the time of the said sale, than it was before, or has been since, and especially at the present time? At what rates were mill saws rented at that time, and at what rate are they now rented or hired? If such property has depreciated, what is the rate of depreciation?

Objected to by complainant.

Eleventh. Whether or no have you any knowledge or information derived from the statements of the said Samuel Veazie or Ira Wadleigh, to you or in your hearing, or do you know of your own knowledge, that immediately after the sale at auction of the said property was closed, an express was run to Boston, by any person or persons, and by whom; and for the benefit or in the employ of any and what person or persons, in order to obtain the said property from the defendants by private contract? If yea, state who was concerned therein; what was his or their design; what sum was to be offered for the said property, and what means to be used to obtain it?

Objected to by the complainant.

Twelfth. Whether or no did you hear Samuel Veazie, immediately or soon after the sale of said property as aforesaid, or at any and what time, express satisfaction with his purchase, and in what manner did he express himself? Did he or not mention any and what sum of money at which he valued his bargain, or that he would not give up his purchase for any, and what sum of money?

Objected to by the complainant.

Thirteenth. Do you know any other matters or things which would be of service or benefit to said defendants? If yea, please to state them as fully and particularly as if you were specially interrogated thereto.

C. S. & E. H. DAVEIS, and
C. P. & B. R. CURTIS,
For the defendants.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, *Clerk's office, Aug.* 20, 1842.

Received and filed.

Attest: J. MUSSEY, *Clerk.*

A true copy.

Attest: J. MUSSEY, *Clerk.*

CIRCUIT COURT UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Cross interrogatories to be proposed to Nicholas G. Norcross, a witness to be produced and examined on the part of the respondents.

First. If you answer the third direct interrogatory in the affirmative,

state also, if there was any agreement made to purchase, who were the parties to the agreement; when and where was the agreement made; who by the terms of the agreement was to bid, and which one of the company was it who made the highest bid. What was your highest bid?

Second. How many times can you now state you know that Ira Wadleigh bid at said auction? How many times did you hear him publicly and audibly announce a bid, and what were the bids they made? State what you know and now recollect was the highest sum publicly bid by said Wadleigh; what particular means of knowledge did you possess of knowing what said Wadleigh bid publicly, which others at said auction did not possess; and about how many were there present?

Third. Describe the room in which said sale was held; the relative position of said Wadleigh, the auctioneer, said Foster, and yourself. Who of them was standing and who sitting?

Fourth. If you have said that you saw the said Wadleigh or Foster nod, or make signs indicating a bid, describe fully and particularly the nods and signs made. Were they observed by said auctioneer, or received by him as bids, or could you observe both nod or sign, and its recognition by the auctioneer, so as to be able to state the fact as it was?

Fifth. Did you see any other person or persons nod or make signs? If yea, state the names of the persons, the number of times you saw them nod, the amount indicated, and what was the highest sum bid, when the bidding, and nods, and signs ceased, except by Wadleigh and Foster?

Sixth. If said Wadleigh said any thing indicating a determination of having said estate knocked off to him, what sum did he or you believe or suppose would be necessary to bid to effect that object, and do you mean to say, that said Wadleigh intended to convey or did convey to your mind, the idea that no sum could be offered, by any person, which he would not advance upon to obtain said estate, or was his remark made in reference to the supposed price necessary to bid, to obtain the property?

J. P. ROGERS, *for complainant.*

MAINE DISTRICT, *ss:*

CIRCUIT COURT, *Clerk's office, Aug.* 20, 1842.

Received and filed. Attest: J. MUSSEY, *Clerk.*

A true copy. Attest: J. MUSSEY, *Clerk.*

CIRCUIT COURT OF THE UNITED STATES,
Maine district:

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Interrogatories to be proposed to Waldo T. Pierce, Charles Ramsdell, John Bennock, junior, Ebenezer Webster, Amos Davis, George W. Ingersoll, N. O. Pilsbury, and John McDonald, witnesses to be produced and examined on the part of the said defendants.

First. What is your name, age, occupation, and place of abode? Have you had any and what means of becoming acquainted with certain mills and mill privileges, situate at Oldtown falls, in the town of Orono, and State of Maine?

Second. Please declare and state whether or no there has been any, and what depreciation in the market value of the said property between January, eighteen hundred thirty-six, and the present time.

Third. What was the usual rent of a saw mill in immediate neighborhood in eighteen hundred thirty-five and six, compared with the rent now?

Fourth. What is the proportionate value of the said premises now to sell at public auction, compared with their value in January, eighteen hundred thirty-six?

C. S. & E. H. DAVEIS, and
C. P. & B. R. CURTIS,
For defendants.

Complainant objects to the last three interrogatories.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, *Clerk's office, Aug.* 20, 1842.

Received and filed.

Attest: J. MUSSEY, *Clerk.*

A true copy.

Attest: J. MUSSEY, *Clerk.*

CIRCUIT COURT UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Cross interrogatories to be proposed to Waldo T. Pierce, Charles Ramsdell, John Bennock, junior, Ebenezer Webster, Amos Davis, George W. Ingersoll, N. O. Pilsbury, and John McDonald, witnesses to be examined on the part of the said defendants.

1st. Do you know the estate purchased by the complainant of the defendants on Oldtown falls? If yea, are there any mills or buildings upon it, and is it in the same condition now, in those respects, it was in January, eighteen hundred thirty-six, or has the estate been changed in any particular?

2d. If you state any fact in respect to the matters inquired of, state your means of knowledge how you know it; and if there has been any of said property, during the period inquired of, in the market for sale; and how you know it would bring more or less.

J. P. ROGERS, *for complainant.*

MAINE DISTRICT, *ss:*

CIRCUIT COURT, *Clerk's office, Aug.* 20, 1842.

Received and filed.

Attest: J. MUSSEY, *Clerk.*

A true copy.
Attest: J. MUSSEY, *Clerk.*

CIRCUIT COURT OF THE UNITED STATES,
Maine district:

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Interrogatories to be proposed to John Bright, of the city of Bangor, in the said district, a witness to be produced and examined on the part of the defendants.

First. What is your name, age, occupation, and place of abode? Do you know said parties?

Second. Whether or no were you employed to do any thing, and what, by any persons, as to the sale at auction of certain mill property of the defendants, in January, eighteen hundred thirty-six? If yea, state what you did?

Third. Who was employed as auctioneer; who employed him; and was any agreement made with him, before the said sale, as to his compensation for making the same? If any thing in respect thereto took place in your presence, state the same fully.

Fourth. Whether or no did you, or did any one in behalf of the said defendants to your knowledge or belief, request, or authorize, or in any way suggest to the said auctioneer, or any other person, to bid at the said sale in behalf of the defendants, or make any fictitious or pretended bid at the said sale, or to do any thing, or permit any thing to be done unfairly, to enhance the price of the said property? Declare fully.

Fifth. Did you attend the said sale? Did you bid on the said property; or did you then know or have any cause to believe that the said auctioneer was himself bidding on the said property, or that any one was bidding in behalf of the defendants, or was using any unfair means to run up the said property, or enhance the price thereof?

Sixth. Did you see Ira Wadleigh at the said sale; whether or no did you see him bid? If yea, how often? Whether or no, at any, and at what time during the said sale, did you see him go up and speak to the auctioneer? And if yea, how long was this before the said property was knocked off; and to what sum had the bidders then reached?

Seventh. Whether or no did the said Wadleigh go up and speak to the auctioneer more than once during the said sale?

Eighth. After the said sale, did the said Veazie say any thing, and what, to you, as to being satisfied, or otherwise, with his bargain?

Ninth. Whether or no are you acquainted with the property then sold? If yea, describe the situation thereof, and the relative situation of the same, and the mills of the said Veazie and Wadleigh.

Tenth. Whether or no, at the time of said sale, was property in that vicinity, and especially mill property, held, and rented, and sold at high

or low medium rates, compared with the value thereof before and since? Whether or no were there many or few buyers of real estate, situate in that vicinity, compared with the present time, and the period of two years now last past?

Objected to by complainant.

Eleventh. Whether or no has real property, in general, in that vicinity, and especially mill property, advanced or fallen in value since the said sale, and much, or little?

Objected as above.

Twelfth. Please state what was the usual rent of a saw mill in the neighborhood of this property at the time of said sale, and what is the rent now.

Objected to as above.

Thirteenth. Whether or no has Ira Wadleigh applied to you, at any, and what times, as the agent of the defendants, to give up to him any and what note, held by them? If yea, what inducements did he offer to cause the same to be done? State fully.

Fourteenth. Do you know the form in which the consideration was paid by the complainant to the defendants, for the property purchased of them by the complainant at auction aforesaid; was it wholly or in part by notes of hand? If yea, have they been paid, or is one or more of them outstanding? If outstanding, has the complainant made any payments of interest thereon, and when was the last of said payments made, and to whom? If you can say that one or more of said payments was made to you, in what capacity did you receive them? Did the complainant, to your knowledge, ever refuse payment of the principal or interest of said notes, or either of them? If yea, when did he so refuse absolutely?

Fifteenth. Do you know any other matter or thing favorable to the defendants? If yea, state the same fully.

C. S. & E. H. DAVEIS, and
C. P. & B. R. CURTIS,
For defendants.

August 8, 1842.

Additional interrogatory to be proposed, after the last cross interrogatory is answered.

If you state, in answer to the last cross interrogatory, that the defendants have conveyed any shares to you, state how many, and why they were conveyed.

C. P. & B. R. CURTIS,
For defendants.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, CLERK'S OFFICE, *August* 20, 1842.

Received and filed.

Attest: J. MUSSEY, *Clerk.*

A true copy.

Attest: J. MUSSEY, *Clerk.*

CIRCUIT COURT OF THE UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS & al.

Cross interrogatories to be proposed to John Bright, *as* witness, to be produced and examined on the part of the defendants.

Interrogatory 1st. How are you related to the defendants, or either of them? How long have you been employed as their agent, in respect to the property sold complainant; and who employed you to be at the said sale?

2d int. What agency had you in said sale; from whom was it derived; was it in writing? If yea, annex the same, or state the authority particularly.

3d int. If you bid at said sale, for whom did you bid; who authorized you to bid; what amount did you bid; what was the limit of your authority, and what was the extent of your bidding?

4th int. Had you any means of paying for said property in the event of its being struck off to you, and why did you interfere in said sale?

5th int. What did Ira Wadleigh say to said Head; what sum did he bid; what was the highest bid made by him; how many times did he bid; how do you know he made these several bids?

6th int. How do you know said Wadleigh spoke to said Head more than once, or once? Did you hear what was said? If yea, state it. Who was the last man who bid in opposition to Samuel J. Foster, and what was the same offered by him; was it audibly, or by nod or sign? State the highest sum you *heard* bid, and who bid it beside said Foster?

7th int. If you answer the fifth direct interrogatory in the affirmative, [please state when you first had cause to believe said auctioneer did first advance bids upon the said Foster, and from whom you derived such knowledge, and when the defendants first knew it.]

Part in brackets objected to as incompetent and irrelevant.

8th int. State fully your knowledge and your means of knowledge, of what the auctioneer and others at said sale did, and bid in relation to said sale; who bid, what amount they bid, and how you know they bid?

9th int. Did you communicate the application of said Wadleigh to the defendants? If yea, when was it? In writing? If yea, annex the same, or a copy; and if you have neither, will you please write the defendants for the original, and annex that.

10th int. When *was* you informed that your testimony would be taken in this case? What *was* you asked if you could swear to, who interrogated you, and what were the questions you were informed would be asked you?

11th int. State particularly what you *was* employed to do in the matter of the sale of this property at auction, what you did do, what

you know other people did, and how you know it; who bid at said sale. their respective bids; were the bids announced openly; and what was the highest bid made by said Wadleigh which you heard.

12th int. Have the defendants, or either of them, conveyed to you, since said sale, any shares in the Bank of Bangor? If yea, when, and how many?

J. P. ROGERS, *for complainant.*

MAINE DISTRICT, *ss:*

CIRCUIT COURT, CLERK'S OFFICE, *August* 20, 1842.

Received and filed.
Attest: J. MUSSEY, *Clerk.*

A true copy.
Attest: J. MUSSEY, *Clerk.*

CIRCUIT COURT OF THE UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS.

Interrogatories to be proposed to William Abbot, of Bangor, in the said district, esquire, a witness to be produced and examined on the part of the said defendants.

First. What is your name, age, occupation, and place of abode? Do you know the said parties; have you been employed as counsel in this cause?

Second. Whether or no, in the course of the month of September last, or about that time, did you have an interview with Ira Wadleigh? If yea, please declare and state what was said by him as to contradicting the testimony of Henry A. Head, and as to what sum was bid by him at the sale of the lands which are the subject of this suit; and whether or no, on behalf of the defendants, you endeavored to learn from him what he knew as to the said sale; and whether or no he declined to tell what he knew; and what reasons, if any he gave; and generally all that he said respecting the subject matter of this suit?

C. S. & E. H. DAVEIS, &
C. P. & B. R. CURTIS,
For the defendants.

Mr. Abbot will answer the above fully, and it will be satisfactory.

J. P. ROGERS,
For complainant.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, *Clerk's office*, *August* 20, 1842.

Received and filed.
Attest: J. MUSSEY, *Clerk.*

A true copy.
Attest: J. MUSSEY, *Clerk.*

2/1.

Depositions of witnesses produced, sworn, or affirmed and examined, on the twenty-third day of August, A. D. 1842, and divers other days, as is hereinafter certified, under and by virtue of a commission issued out of the circuit court of the United States, for Maine district, directed to me or to Henry Warren, esquire, for taking the depositions of certain persons therein named, in a certain cause there depending and at issue between Samuel Veazie, plaintiff in equity, and Nathaniel L. Williams and al., defendants.

Charles Ramsdell, of Bangor, in the county of Penobscot, of lawful age, being produced, affirmed and examined, on behalf of the defendants in the title of these depositions named, doth depose as follows, to wit:

To the first interrogatory.

My name is Charles Ramsdell. I am sixty years of age; am at present out of business, and am residing in Bangor. I have frequently visited Old Town since June eighteen hundred seventeen, and have seen the mills and mill privileges at Oldtown falls.

To the second interrogatory.

There has been a great depreciation in the market value of said property since January, 1836, although none in the real value. In January, 1836, there was no fixing any market value to such property. I should think the value of some of the privileges on Marsh Island shore, were worth from five hundred to one thousand dollars at the present time. Their real value was no more in 1836; but they had a fictitious value of eight to ten thousand dollars a saw. I believe they have been sold for that within seven years.

To the third interrogatory.

In eighteen hundred thirty-five and six, mills there rented, I think, for from eight hundred to one thousand dollars a saw. I don't know what mills rent for there the present year.

To the fourth interrogatory.

If said property were now put up at auction, I should think it would not bring over from five hundred to a thousand dollars to a saw. In 1836, such property was deemed much more valuable, but how much more I cannot tell.

Cross examined.

To the first cross interrogatory.

I do know the estate said to have been purchased by Samuel Veazie of Williams and others. There are no mills or buildings upon it. I believe it is in the same condition now in those respects it was in January, 1836. The estate has not to my knowledge been changed in any particular.

To the second cross interrogatory.

My means of knowledge are derived from having, in 1825, built two saws in Orono, and in 1832 two more, within two miles and a half of the property inquired about; and having most of the time since had something to do with lumber, and frequently at Old Town, about the

mills. There has not, to my knowledge, been any of said property on Old Town falls in the market for sale since the auction sale at which it was said Veazie purchased of Williams. Whether it would bring more or less, I can only say that it is mere matter of opinion with me. The general depreciation of property, or rather of the prices of property, induces me to think it would bring less than in 1836. I think the real value of a mill privilege there was, and is, from five hundred to a thousand dollars.

CHARLES RAMSDELL.

DISTRICT OF MAINE, *ss:*

On the twenty-third day of August, A. D. 1842, the aforesaid deponent was examined, cautioned, and affirmed, agreeably to law, to the deposition aforesaid by him subscribed, before me.

FRED. HOBBS,
Commissioner.

John Bright, of Bangor, of lawful age, being produced, sworn, and examined, in behalf of the defendants, in the title of these depositions named, doth depose as follows, to wit:

To the first interrogatory.

My name is John Bright; I am forty-two years old; reside in Bangor, and am engaged in trade. I know the parties to this suit.

To the second interrogatory.

I was employed by Nathaniel L. Williams to advertise mill sites at Oldtown, owned by him and Stephen Williams, to be sold at auction in January, 1836. I advertised said property in one of the Bangor papers and in a Portland paper, to be sold, I think on the first day of January, 1836. I am not positive as to the day of the month. This is all I did previous to the sale.

To the third interrogatory.

Henry A. Head was employed as auctioneer. I think he was employed jointly by Stephen Henry Williams, son of Stephen Williams, and myself. No agreement was made by me as to the compensation for making the sale. I do not recollect that any thing took place in my presence before the sale in relation thereto.

To the fourth interrogatory.

I did not, nor did any one to my knowledge or belief, request or authorize, or in any way suggest to the auctioneer, or any other person, to bid at said sale, in behalf of the defendants, or to make any fictitious or pretended bid at the said sale, or to do any thing, or permit any thing to be done unfairly, to enhance the price of the said property.

To the fifth interrogatory.

I did attend the sale. I did not bid on the property, nor did I then know, nor had I cause to believe, that said auctioneer was himself bidding on the said property, nor that any one was bidding on said property for the defendants, or was using any unfair means to run up said property or to enhance the price thereof.

To the sixth interrogatory.

I saw Ira Wadleigh at the sale. I am not positive that I saw him bid. I saw him go up to the auctioneer immediately before the property was struck off, and I thought spoke or whispered to the auctioneer. I should think it might have been five minutes before it was struck off. I think the bids had then reached thirty-nine thousand and some hundred dollars.

To the seventh interrogatory.

I think Wadleigh did go up and speak to the auctioneer more than once during the sale, but cannot say positively that he did.

To the eighth interrogatory.

After the sale, Mr. Veazie said to me, or in my presence, that he was satisfied with his purchase. He said that he would not take five thousand dollars for his bargain, or something to that effect.

To the ninth interrogatory.

I am acquainted with the property then sold. The privileges are situated on what is called the Upper falls, at Oldtown. One was the shore privilege, and the other the third privilege from the shore; each for a double saw mill. One double saw mill site was situated between the Williams property, one-half of which was said to belong to Ira Wadleigh, and the other to Samuel Veazie. Veazie had constructed a canal inside of William's shore privilege, through the mill brow, and carried the water some distance below, and there erected two double saw mills and other machinery. Veazie owned a double saw mill outside of, and adjoining Williams's outside privilege. Veazie had also erected several mills still farther out, and between the last named mill and an island. Wadleigh and others purchased an island lying off against these mills, and erected a dam and mills thereon, and claimed to the centre, or half way from the island to the shore, embracing Veazie's outside mills. The mill brow was used by Veazie for the canal before named; and he had also erected stores and houses upon it. I don't know as I should say houses, but stores only.

To the tenth interrogatory. Property in that vicinity, and especially mill property, was held and rented and sold at high rates, compared with the value thereof before and since said sale. There were many more buyers of real estate situated in that vicinity, compared with the present time and the period of two years since and now last past.

To the eleventh interrogatory. Real property in that vicinity, and especially mill property, has very much fallen in value since said sale.

To the twelfth interrogatory. The usual rent of a saw mill in that vicinity, at the time of said sale, was from eight to ten hundred dollars a saw. I have understood that the rent has been as low as two hundred dollars a saw. I cannot say what saws are rented for the present year.

To the thirteenth interrogatory. Ira Wadleigh has applied to me several times within the last five or six years, to give up to him a note or notes and mortgage held by me as agent for Messrs. Williams, given by John T. Davis, of Oldtown, to them, for a certain lot of land at Oldtown. Wadleigh stated that he had been of great service to the

Williams in the sale of this property; that, if it had not been for him, they would not have received so much from it, and intimated that it was in his power to do them much good, or harm, in regard to the sale of this property. Wadleigh said he had purchased this lot of Davis, and was to take up Davis' note and clear the mortgage.

To the fourteenth interrogatory. Veazie paid part of the consideration down, I think ten or twenty per cent., and gave his notes for the balance. One of the notes has been paid, and one remains unpaid. Veazie has paid interest on both notes, but there is a balance of interest due on the last note. The last payment of interest was made to me to the first of January, 1840, and was made some time in January or February, 1840; that is, I suppose, for the interest of 1839. I received the money paid as the agent of Messrs. Williams. Veazie did not refuse to pay said principal or interest, till I called on him to pay the interest due for 1840, which was about the first of January, 1841. Some time in the spring of 1841, I think it was, Mr. Veazie said to me that he should not pay anything more; that they might sue him, or if they did not, he should sue them.

To the fifteenth interrogatory. Gen. Veazie has several times said to me, that he had made a foolish bargain; but that he had nobody to blame but himself; that the Messrs. Williams had used him fairly. He has several times made propositions to pay this last note by real estate in part and bank stock in part. When I called on Veazie for interest at sundry times, he has said it was due, and ought to be paid, and that he would pay it as soon as he could, but that it was at that time out of his power.

Cross examined.

To the first cross interrogatory. I am in no way related to the defendants, or either of them, except as their agent for their property in this section of the country. I was the agent of the defendants some time before the sale of this property and since, and am now their agent. I was first made their agent in 1825, and have been ever since to transact all their business in this part of the country. Mr. N. L. Williams directed me to sell the property, and requested me to attend at the sale.

To the second cross interrogatory. I don't know that I had any other agency in said sale, than to see that every thing was done fairly in regard to it. It was derived from Nathaniel L. Williams. It was in writing. They were general directions given by Mr. Williams to advertise the property for sale, and I think he wished me to attend the sale. I cannot annex the letter, as I do not know where the letter now is. I do not recollect any particular directions in regard to the sale, any further than I have stated.

To the third cross interrogatory. I did not bid at the sale.

To the fourth cross interrogatory. I did not interfere in said sale.

To the fifth cross interrogatory. I do not know what Ira Wadleigh said to said Head. I did not hear Wadleigh bid any sum; the bidding was by nods and winks. I could not say certainly what was the high-

est sum bid by Wadleigh. I can only say what I understood at the time of the sale, which was, that he bid nearly to the amount that Gen. Veazie did. I cannot state from my own knowledge, how many times he bid, as the room was full, and several persons were bidding about the room. I cannot say that Wadleigh did make several bids, but I have no doubt of the fact.

To the sixth cross interrogatory. I know that Wadleigh spoke to Head, or whispered to him once, because I saw him go up to the table, and speak or whisper to him near the close of the sale. I did not hear what was said. I don't know from my own personal knowledge, who bid last in opposition to Samuel J. Foster. It was struck off to S. J. Foster, at forty thousand dollars, and that sum was bid by him. The bid was by a sign, and not audible, I think. I don't know that I heard any bid aloud, except General Veazie. I heard him bid once, and I believe all the others were by signs. I do not recollect how much General Veazie bid aloud.

To the seventh cross interrogatory. I have answered said fifth interrogatory in the negative.

To the eighth cross interrogatory. I have already stated my knowledge and means of knowledge of what took place at the sale. I did not take particular notice as to who was bidding. It was done by signs and not audibly, except as I have before stated in regard to Mr. Veazie's bid. I think I saw Foster make signs several times, and only judged of his bid by the announcing of it by the auctioneer. It was struck off to Foster at forty thousand dollars, and Foster said he bid for General Veazie, who afterwards claimed the bid, and completed the sale by taking a bond for a deed.

To the ninth cross interrogatory. I did convey said Wadleigh's application to the defendants. It was soon after it was made to me. It was communicated in writing. I have not said writing or a copy of it. When writing to Messrs. Williams on other business, I casually mentioned it to them. Having written Mr. Williams on other and private business, I should not wish to make that letter a part of my deposition, and therefore decline writing for it.

To the tenth cross interrogatory. I think Mr. Williams wrote to me some weeks or months since, that my deposition would be required, and he spoke of it a few weeks since in Boston. I was asked as to what I could swear, as to the sale and directions given generally. I believe I was asked the question by Mr. Williams, and also by Mr. Curtis, of Boston. I don't know as any questions, in particular, were mentioned, except about the sale.

To the eleventh cross interrogatory. I was directed to advertise in the papers that the property would be sold at a certain time. I was also requested to attend to the sale, and see that every thing was done fairly. I did as I was requested, and as I have already stated. I cannot state more fully or particularly what other people did, than I have already stated. Nor can I state who bid, respectively, otherwise than I have before done. They were made by signs, except by Veazie

once, and I think I saw Foster bid two or three times. The room was full, and I did not take particular notice as to who were bidding. The bids were announced by the auctioneer openly, but made by signs and nods, or winks by the bidders, except the bid of General Veazie before named. I did not hear Wadleigh make any bid.

To the twelfth cross interrogatory. The defendants have conveyed to me shares in the Bank of Bangor since said sale at auction. It was, I think, in the summer of 1837. Four shares.

Re-examined.

To the additional direct interrogatory. The four shares were conveyed to me, for the purpose of making me eligible as a director of the Bank of Bangor. The defendants received in payment of one of Gen. Veazie's notes, stock, one hundred and forty-four shares in said Bank. The defendants divided the stock seventy shares to each, leaving four to be transferred to me, agreeably to an understanding with Gen. Veazie, to make me a director, to take care of their interest in said Bank.

JOHN BRIGHT.

DISTRICT OF MAINE, *ss:*

On this twenty-third day of August, A. D. 1842, the aforesaid deponent was examined, and cautioned, and sworn, agreeably to law, to the deposition aforesaid, by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

Waldo T. Pierce, of Bangor, of lawful age, being produced, sworn, and examined, on behalf of the defendants in the title of these depositions named, doth depose as follows, to wit:

To the first interrogatory. My name is Waldo T. Pierce. I am thirty-seven years of age, and engaged in the business of merchandize, and reside at Bangor. I have had means of becoming acquainted with certain mills and mill privileges referred to. I have frequently had lumber sawed at Veazie and Wadleigh's mills, on Old Town falls, and for twenty years past have been often at Old Town doing business with people there, and owning a considerable amount of property at that place for the last fourteen years.

To the second interrogatory. There has been a very great depreciation in the market value of mills and mill privileges, since January, 1836. Saws at Stillwater, five miles from Oldtown falls, which in 1835 were sold for from six to ten thousand dollars a saw and privilege, cannot now be sold for one thousand dollars; and, in fact, some saws in large blocks of mills have been taken down, and have been sold for their frames and gear, and removed on to the Kenduskeag stream. All the saws on the river have been affected by the large number of those erected on the river and in the vicinity.

To the third interrogatory. The rent in 1835, and previous to that time with the exception of 1834, when few logs came down, was from eight to twelve hundred dollars a saw; varying according to the situation of

the saw, and the quantity of the logs cut each year. I mean on Penobscot river, at Oldtown, and Stillwater, from 1837, up to the present year, there has not been logs more than enough to stock one half said mills, and it has been very difficult to rent them at prices varying from one to four hundred dollars. But this year, owing to the large stock of logs, saws have been in good demand, and have rented readily, the early part of the season, for from four to six hundred dollars a saw.

To the fourth interrogatory. If the property purchased of Williams at auction is referred to in the question, I cannot answer it, as I do not know the particular boundaries of the property, and can speak only of mills and mill property generally in Orono and Oldtown. I should think such property would not bring one quarter as much at auction now as it would have done in 1836. It would be difficult to sell it at all. Saws at Stillwater have been set off on execution at from one thousand to twelve hundred dollars a saw.

Cross examined

To the first cross interrogatory. I know the estate purchased by Veazie of Williams, generally, but not the particular boundaries or limits of said estate. I don't know whether any of the mills or buildings now standing are on the William's property, so called, or not; the dam and part or all of said mills and buildings have been burnt, and were burnt before the sale at auction. So far as I have any knowledge or idea of the boundaries of the Williams property, no buildings or mills have been erected since 1836. The dam has been rebuilt or repaired where it was burnt, since that time, or since it was burnt. I do not know that the estate has been changed in any particular since that time, otherwise than I have stated.

To the second cross interrogatory. I have hired mills and leased mills for the last twelve or fifteen years; and having owned a hundred acre lot adjoining the lot on which these mills are situated, since 1828, and from which I have been making sales, and on which a great part of the village of Oldtown is built, I have been familiar with the value of property in that neighborhood, and particularly with mill property. Mill property at Stillwater has been in the market for sale since January, 1836, and I have been offered saws for one thousand dollars each, in exchange for other real estate; saws for the *rent* of which I paid a thousand dollars per annum in 1835. For these reasons I think such property would not bring so much as in 1836.

WALDO T. PIERCE.

DISTRICT OF MAINE, *ss:*

On this twenty-fourth day of August, A. D. 1842, the aforesaid deponent was examined, cautioned, and sworn, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

Nicholas G. Norcross, of Bangor, of lawful age, being produced,

sworn and examined, on behalf of the defendants, in the title of these depositions named, doth depose as follows, to wit:

To the first interrogatory. My name is Nicholas G. Norcross, I am thirty-six years old, and reside at Bangor, and am engaged in lumbering and merchandize. I know Samuel Veazie and Nathaniel L. Williams.

To the second interrogatory. I know the property referred to. I was present at said sale, and bid at the same.

To the third interrogatory. I know Ira Wadleigh, of Oldtown, and have known him since 1825. I did have a conversation with said Wadleigh, prior to said sale, relative to the purchase of said property. Wadleigh wished to know if I or Norcross and Mason would purchase said property. I told him we would buy, if we could get it at seventeen thousand dollars, and finally that we would go to twenty thousand; such is my impression; Wadleigh said he wanted to bid it off; he did not name any price. I told him I would not agree to it; he said nothing more than I have stated, as I now recollect.

To the fourth interrogatory. I recollect their conduct during some part of the sale, or have some indistinct recollection of it. I think I heard them make some bids, and saw them make some nods to Head. I cannot recollect distinctly at what time I noticed their bids. The auctioneer declared bids from fifteen to forty thousand dollars, varying as near as I can recollect, from one hundred to five hundred dollars to a bid, from various persons. I don't recollect distinctly enough to give any description of their acts.

To the fifth interrogatory. I have never talked with Wadleigh from that day to this, on the subject, and have not heard him say any thing about it to my recollection.

To the sixth interrogatory. I know nothing about it.

To the seventh interrogatory. I am acquainted with the situation of said mill seats and property. I don't know whether it was more valuable to Wadleigh and Veazie than to a stranger.

To the eighth interrogatory. I never heard Veazie say anything about it. I heard Wadleigh say what I have already stated.

To the ninth interrogatory. I believe there was a controversy between Wadleigh and Veazie prior to said sale, about their said property; I don't know that the possession of said property by Wadleigh or Veazie, would have given either of them any advantage in said controversy, over the other.

To the tenth interrogatory. Property of all kinds had a greater nominal value in or near Bangor, at the time of said sale, than it now has. Mill property was renting at that time higher than it had for some years before, and higher than it is now. Mill saws were renting at that time for from six to ten hundred dollars a saw; they are now rented at from four hundred to six or seven hundred, varying according to the situation. I do not know how much such property has depreciated; it has depreciated in value nominally.

To the eleventh interrogatory. I know nothing of it.

To the twelfth interrogatory. I never heard Samuel Veazie express himself on the subject in any way in regard to his purchase.

To the thirteenth interrogatory. I do not know any thing further that would be of any advantage to the defendants.

Cross examined.

To the first cross interrogatory. There was no further agreement made than I have stated in my answer to the third direct interrogatory. There was no other party than Wadleigh. It was made, as near as I can recollect, in Norcross' and Mason's store, in Bangor. I do not recollect who, by the terms of the agreement, was to bid. I do not recollect who made the highest bid; nor do I recollect what was my highest bid, but something near twenty thousand dollars.

To the second cross interrogatory. I could not state how many times Ira Wadleigh bid at said auction; he bid several times. I don't recollect that I heard him bid audibly at all, nor can I state his highest bid, whether made publicly or by signs. I had no particular means of knowing what Wadleigh bid publicly, more than others present, after the bids went above the sum of twenty thousand dollars, which we had agreed to bid, as I before stated. There were quite a number present. I cannot tell how many.

To the third cross interrogatory. Said sale was made in the southwest room of the "Exchange," in Bangor. I think Wadleigh sat upon the north side of the room. I stood near by his side part of the time. My impression is, that Foster had no particular station in the room; he was moving about. The auctioneer stood, as near as I can recollect, somewhere in the southwest quarter of that room.

To the fourth cross interrogatory. It is impossible for me, after the lapse of so long a time, to describe the kind of sign, or nod, made by any one. I know nothing positively as to what the auctioneer observed or received after it got up to twenty thousand dollars, otherwise than that he announced the bids. I cannot state the fact as it was, otherwise than I have already stated.

To the fifth cross interrogatory. I do not recollect seeing any other persons make nods or signs. I cannot state what the highest sum bid was, or about any other one's bidding, after it went up to about twenty thousand.

To the sixth cross interrogatory. I do not recollect anything more than I have stated in regard to my conversation with Wadleigh prior to said sale. I do not mean to state that Wadleigh said or gave me to understand that no sum could be offered upon which he would not advance to obtain said estate. I suppose when Wadleigh made the arrangement with me, or us, that he expected we might get it at about twenty thousand dollars. But then I don't know what he supposed.

NICHOLAS G. NORCROSS.

DISTRICT OF MAINE, *ss:*

August 24, 1842.

On this day the aforesaid deponent was examined, and cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

William Abbot, of Bangor, of lawful age, being produced, sworn, and examined agreeably to law, on behalf of the defendants, in the title of these depositions named, doth depose as follows, to wit:

To the first interrogatory. My name is William Abbot. I am sixty-eight years of age. I reside in Bangor, and I am by profession a counsellor at law. I am not counsel in any other way than in advising and assisting in preparing the defence, having commenced the action at law, upon a note, upon which the present bill in equity is founded.

To the second interrogatory. I had an interview with Ira Wadleigh some time in the year 1841; but I cannot say that was in the month of September. In that interview with him, I had a conversation with Mr. Wadleigh, and endeavored to ascertain what sum he bid for said land. He declined to tell me what sum he bid, and offered as a reason that he had had a contest with Gen'l Veazie upon the subject of the lands in question in this suit. He said, if he was called upon the stand, he should testify the truth; but he did not seem willing to let me know what he had bid. It was about the time, or a little after, that Gen'l Veazie had taken the testimony of H. A. Head, that I had this conversation with Wadleigh. I stated to him what Head had sworn to in regard to the amount of his bid, and he said that he should not agree with Head in the amount of his bid. He said, or intimated, (he was very cautious in what he said,) that he should testify differently from Head. I cannot undertake to state the language made use of by Wadleigh at that time; but the foregoing relation is substantially correct. I wrote to Messrs. Williams, soon after this conversation, the substance of it, when it was more fresh in my mind. I think this about all I can say in answer to the question.

WM. ABBOT.

DISTRICT OF MAINE, *ss:*

On this twenty-fourth day of August, A. D. 1842, the aforesaid deponent was examined, and cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

John Bennoch, jun'r, of lawful age, being produced, sworn, and examined on behalf of the defendants, in the title of these interrogatories mentioned, doth depose as follows:

To the first interrogatory. My name is John Bennoch, late John Bennoch, *junior*. I am about forty-one years of age. I am now a farmer; was formerly engaged in merchandize. Orono is my place of

abode. I have not any particular means of becoming acquainted with the mill property and privileges at Oldtown falls, except as being an assessor when Oldtown made a part of Orono.

To the second interrogatory. There has been a depreciation in mill property and privileges, at Orono, of from one-half to two-thirds of its market value since January, 1836. I should think it was about the same at Oldtown. In many cases it is more than that. Perhaps *that* might be considered an average.

To the third interrogatory. The mills at Oldtown in 1835–'6, rented for about a thousand dollars a saw. Our mills at Orono now rent for from two hundred to five hundred dollars. In 1835–'6, they rented for about a thousand dollars. I think the mills at Oldtown now rent for about the same as those at Orono.

To the fourth interrogatory. I should think the proportionate value of the property at Oldtown falls, now to sell at auction, compared with their value in 1836, was about one-third, comparing them with the mills at Orono.

Cross examined.

To the first cross interrogatory. I know where it is situated, or where the mills used to stand that were burnt. I think there are not at present any mills or buildings upon the falls. I should suppose it was in the same condition, in those respects, as in 1836. I don't know of any alteration. I think it remains the same.

To the second cross interrogatory. My means of knowledge are frequent sales of mills, and set offs on executions, and comparing them with such property at Orono. Such property, one mill, to my knowledge, has been offered by me for sale during that period. I was agent for the Canal Bank, at Portland, for a mill which, in 1835 or '6, was sold for about twenty-five hundred to three thousand dollars, and the most that I can get offered now is six hundred dollars. The privilege is the same now as then, but the mill is now out of repair. On reflection, I can only speak of mills set off on execution, and not sales of mills.

JNO. BENNOCH.

DISTRICT OF MAINE, *ss:*

On this twenty-fifth day of August, A. D. 1842, the aforesaid deponent was examined, cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

George W. Ingersoll, of lawful age, being produced, sworn, and examined on behalf of the defendants in the title of these interrogatories named, doth depose as follows:

To the first interrogatory. My name is George W. Ingersoll; am thirty-nine years old, in the practice of the law, and reside in Bangor; I have had such means; I boarded at the Wadleigh house, in Oldtown,

opposite said mills, and very near them, for nearly two years; I am well acquainted with the premises.

To the second interrogatory. I should think there had been a great depreciation in the market value of said property since January, 1836; it is difficult to say how much; other property in Oldtown with which I have had to do has depreciated full three-quarters, and I think I might go as far as seven-eighths; three-quarters is within bounds; I refer to vacant lots without buildings; my opinion would be, that this mill lot, that has no mills on it, has depreciated as much.

To the third interrogatory. The rent of the mills, on Old Town falls, according to my best recollection, was from seven hundred and fifty to a thousand dollars a saw, in 1835 and '6; the shore mills were from eight hundred to a thousand dollars a saw; I cannot say what the present rent is; it is nearly five years since I moved from Oldtown.

To the fourth interrogatory. I should not think it would bring more than one-sixth or seventh part of what it would then, not that I think it was worth that at that time, but it would fetch it then; I understood, at or about the time of the sale, that it was important for Gen. Veazie's other property at Oldtown that he should own this privilege, and the price was much enhanced by that consideration.

Cross examined.

To the first cross interrogatory. I do know said estate; I think there are no mills or buildings upon it, and that it is in the same condition as in 1836; the estate has not been changed, in any particular, to my knowledge, since 1836.

To the second cross interrogatory. I think I have stated my means of knowledge in relation to the facts to which I have testified; the grounds of my opinion, in relation to the value of this particular piece of property, are my knowledge of other property in that village, (having been a purchaser there and seller of real estate,) and the location of these particular premises, in relation to Gen'l Veazie's other mill property, and the importance which Gen. Veazie's agent, Young, attached to Gen. Veazie's owning this particular piece of property. There has not been any of said property in market for sale, to my knowledge, since 1836. I know it would bring less, because a great deal of property in that village would then sell for what it was worth, or even more than it was worth; but now, none of it will sell for any thing like what it was estimated at that time; and furthermore, property at that place, real estate, will hardly sell now for any price, in cash.

G. W. INGERSOLL.

DISTRICT OF MAINE, *ss:*

On this twenty-sixth day of August, A. D. 1842, the aforesaid deponent was examined, and cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

Nehemiah O. Pillsbury, of lawful age, being produced, sworn, and examined on behalf of the defendants, in the title of these interrogatories named, deposeth as follows:

To the first interrogatory. Nehemiah O. Pillsbury. Thirty-five years of age. I am in the auction and commission business. I reside in Bangor. I have had no means of knowing said property, only from the representations of others.

To the second interrogatory. Not knowing the property, I cannot speak of its relative values in 1836, and at the present time.

To the third interrogatory. I cannot answer of my own knowledge, not having been concerned in mills.

To the fourth interrogatory. I can only judge from the depreciation of other property. I should think mill property had depreciated from half to two-thirds. What it would bring at auction now, would depend on the circumstances under which it was sold.

Cross examined.

To the first cross interrogatory. I have no personal knowledge of the estate. I do not know what is the situation of the property in regard to mills and buildings.

To the second cross interrogatory. I cannot answer further or differently from what I have already done.

N. O. PILLSBURY.

DISTRICT OF MAINE, *ss:*

On this twenty-sixth day of August, A. D. 1842, the aforesaid deponent was cautioned, examined, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS, *Commissioner.*

John McDonald, of Bangor, of lawful age, being produced, sworn, and examined on behalf of the defendants in the title of these interrogatories named, deposes as follows:

To the first interrogatory. John McDonald. Is forty-one years old. Am engaged in the practice of the law in Bangor. I have none other than such acquaintance with them as is derived from a transient view of them.

To the second interrogatory. I can state nothing of the value of such property, in January, 1836, or at the present time.

To the third interrogatory. I am unable to say what was the comparative rents of those two periods.

To the fourth interrogatory. I am unacquainted with the value of that property, never having had occasion to investigate it at all.

Cross examined.

To the first cross interrogatory. I cannot define the limits of the purchase. I know where the falls are, and have been in mills there, but what particular mills, I don't know. I cannot answer further.

To the second cross interrogatory. I cannot answer further than I have already done.

JOHN McDONALD.

DISTRICT OF MAINE, *ss:*

On this thirtieth day of August, A. D. 1842, the aforesaid deponent was examined, cautioned, and sworn, agreeably to law, to the deposition aforesaid by him subscribed.

Before me, FRED. HOBBS,
Commissioner.

UNITED STATES OF AMERICA,
Maine district, ss: First circuit.

The circuit court of the United States begun and holden at Portland, within and for the Maine district, on the first day of May, [L. S.] in the year of our Lord one thousand eight hundred and forty-two.

To George S. Hillard, Charles Sumner, and William W. Story, all of Boston, in the Commonwealth of Massachusetts, esquires, or to either of them, respectively:

Know ye, that reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do authorize and empower, you to take the answers to the interrogatories hereunto annexed, of Stephen H. Williams, of Roxbury, in the Commonwealth of Massachusetts, a witness to be produced and examined in behalf of the defendants, to be used in a certain cause now pending in said court, wherein Samuel Veazie is plaintiff in equity, against Nathaniel L. Williams and another, defendants.

And to this end, at certain days to be by you appointed for that purpose, to cause said witness as aforesaid to be brought before you, and while present before you, to examine carefully on oath, touching the premises. And when you shall have taken the examination as aforesaid, to reduce, or cause the same to be reduced, to writing, and to be subscribed by said witness in your presence. And the same so taken and subscribed to return, together with this commission, and your doings herein enclosed, sealed and directed to the circuit court aforesaid, next to be holden at Wiscasset, on the first day of October next.

In testimony whereof, we have caused the seal of the said circuit court to be hereunto affixed.

Witness, the honorable Roger B. Taney, at Portland, this twenty-second day of August, in the year of our Lord one thousand eight hundred and forty-two.

J. MUSSEY, *Clerk.*

Circuit court of the United States, Maine district.

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

Interrogatories to be proposed to Stephen H. Williams, of Roxbury, in the district of Massachusetts, merchant.

First. What is your name, age, occupation, and place of abode? Do

you know the said parties? What is the place of abode and occupation of each of them? Are you in any, and what way, related to either, and which of them?

Second. Whether or no, in the winter of eighteen hundred thirty-five, six, were you employed by the said defendants to go to Bangor, in the said district of Maine, and act as their agent in selling any and what property, at auction? If yea, please state whether you went to Bangor, and when, if at all, such sale took place, and who was the auctioneer, and who the purchaser, and for what sum the property was sold?

Third. Before the said auction sale, what was done as to employing an auctioneer? Who was employed, and was any agreement made before the sale, as to paying him any specific sum for his services, or as to paying him more or less, if the property was or was not sold?

Fourth. Did you have any conversation with the said auctioneer, before the said sale, as to his compensation? If yea, state what was said by him and yourself.

Fifth. Whether or no did you authorize or request, or in any way suggest, to the said auctioneer to bid himself, or employ any other person to bid on the said property, or to do or permit anything unfair, unusual, or in any way improper to be done at the said sale, to enhance the price of the said property? Or did you know, or had you any reason to believe, that he intended to do so?

Sixth. Did you, or any one authorized by you, make any bid on the said property at the said sale?

Seventh. Did you at the time of the said sale know Ira Wadleigh? Was he present at the said sale?

Eighth. While the said sale was going on, whether or no did you see the said Wadleigh go up to the said auctioneer and speak to him? If yea, how high had the bids then gone? Did he go up and speak to him more than once? Whether or no are you distinct, or otherwise, in your recollection on this point?

Ninth. Whether or no did you ask the said auctioneer, after the said sale, what the said Wadleigh said to him, when he came up to him during the sale? And if yea, what did the said auctioneer say, as to the said Wadleigh having desired him before the said sale begun to bid for him, and as to what the said Wadleigh said when he came up to him during the said sale?

Objected to by complainant.

Tenth. Please to state all that occurred after the said sale between you and the said Veazie, shewing that he was anxious, or otherwise, to complete the said purchase, and obtain the title; and especially declare, and state, all that the said Veazie said, as to the controversy between him and the said Wadleigh, and the value of the said property to each of them, and to him in particular, and as to an express having been sent to Boston, and as to his coming to Boston himself, and all other matters, as to his anxiety, and that of others, to obtain the land.

Objected to by complainant.

Eleventh. What, if anything, did the said Veazie tell you before

the said sale took place, as to his desire to obtain the said property, and the price he was willing to pay for it, and whether or no you were surprised, or otherwise, when you found he was the purchaser; and why were you surprised or otherwise?

Objected to as above.

Twelfth. What, if anything, did the said Veazie tell you, after the said sale, as to the limits which he had authorized his agent to go, in bidding for the said property, and as to its importance to him; as to calling his family together on the subject?

Thirteenth. Do you know any other matter or thing favorable to the defendants? If yea, state the same fully.

C. S. & E. H. DAVIES, and
C. P. & B. R. CURTIS,
For the defendants.

August 8, 1842.

MAINE DISTRICT, *ss:*

CIRCUIT COURT, CLERK'S OFFICE, *August* 20, 1842.

Received and filed.

Attest: J. MUSSEY, *Clerk.*

A true copy from the original.

Attest: J. MUSSEY, *Clerk.*

CIRCUIT COURT UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS & al.

Cross interrogatories to be proposed to Stephen H. Williams, a witness, to be examined on the part of the defendants.

1. *Was* you the agent of the defendants, and as such, did you effect and negotiate a sale of their estate, in Orono, to the complainant, in January, eighteen hundred thirty-six.

2. If you say the said Wadleigh went up to the auctioneer and spoke to him, where did he go from and to; what *what* was their relative position before, and what was yours to them?

3. *Was* you present at said sale; *was* you in the room during the whole period, after the sale commenced, until the property was struck off; what was the highest sum bid audibly, except by S. J. Foster, which you heard; by whom was it bid, and how many bids did you hear made?

Three. Who was present when you had the conversation with the auctioneer, enquired of in the ninth interrogatory; when and where was it; are you able to state the precise language made use of by the auctioneer; where did said Wadleigh go, after he had so spoken, and what was the sum announced by the auctioneer, as bid previously, say from thirty thousand dollars, to that time?

4. When did you first know, or was first informed, and by whom,

that said sale was effected by the auctioneer, by his voluntarily, and gratuitously, and falsely announcing bids, when none were made or authorized; and when did the defendants first know it?

Objected to, as asking for evidence not competent or relevant.

5. What compensation was paid to said Bright for his services; what services did he render; what was he authorized to do, and what gift or present has he since received from the defendants, or either?

6. Who did Samuel J. Foster say he bid for, and who was the person recognised by you, as the actual and real bidder at said sale?

J. P. ROGERS, *for complainant.*

MAINE DISTRICT, *ss:*

Circuit court, clerk's office, August 20, 1842.

Received and filed.

Attest: J. MUSSEY, *clerk.*

A true copy from the original.

Attest: J. MUSSEY, *clerk.*

CIRCUIT COURT OF THE UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS & al.

Answers to interrogatories proposed to Stephen H. Williams.

1. To the first interrogatory he says:

My name is Stephen H. Williams; I am thirty-four years old; I am a merchant, and reside in Roxbury; I know the said parties; Mr. Veazie resides in Bangor, and is the president of a bank; I don't know his occupation; Mr. Williams resides in Boston, and is retired from business; he is my uncle.

2. To the second interrogatory he says: In the winter of 1835 1836, I was employed by the defendants to go to Bangor, and act as their agent in selling at auction certain mill privileges, at Orono or Oldtown: I went to Bangor; the sale took place, January 1, 1836; the property was sold by Henry A. Head, as auctioneer, and was knocked off to a man named Foster, but Mr. Veazie was the purchaser. The price was forty thousand dollars.

3. To the third interrogatory he says: On arriving at Bangor, being a stranger, I made enquiries of Mr. John Bright as to who was the most respectable auctioneer in the place, and he referred me to Mr. Henry A. Head, as the person employed in disposing the Government lands, and in his opinion the most desirable auctioneer. I accordingly applied to him to dispose of the property, and he consented to do so. On the day of the auction, previous to commencing the sale, he asked me what amount was to be paid to him for his services; being unacquainted with the amount of commissions usually paid to an auctioneer, I told him that he should be paid what was customary. Nothing further was said respecting his fees, previous to the sale.

4. To the fourth interrogatory he says: I have already answered this interrogatory in my reply to the third interrogatory.

5. To the fifth interrogatory he says: I did not authorize, or request, or in any way suggest to the said auctioneer, to bid himself on the said property, or employ any other person to do so, or to do or permit anything unfair, unusual, or in any way improper, to be done at the said sale to enhance the price of the said property; and I did not know, nor had I any reason to believe, that he intended to do so.

6. To the sixth interrogatory he says: I did not, nor did any one authorized by me, make any bid on the said property at the said sale.

7. To the seventh interrogatory he says: I knew the said Wadleigh, at the time of the sale, so as to speak to him; he was present at the sale.

8. To the eighth interrogatory he says: I did see the said Wadleigh, while the sale was going on, go up to the auctioneer and speak to him; the bid had then gone to thirty-nine thousand dollars. Head did not go up and speak to him more than once; I am distinct in my recollection on this point.

9. To the ninth interrogatory he says: I did ask the auctioneer immediately after the sale what Mr. Wadleigh had said to him, when he came up to him during the sale, and he replied to me, that on going into the room immediately previous to the sale, Mr. Wadleigh gave him unqualified authority to purchase the property for him, or, in other words, had told him, that when the property was knocked off, it was to be his, (Wadleigh's). He (the auctioneer,) also told me, that when Wadleigh came up to him on that occasion, he said to him "for God's sake stop, and bid no more for me."

10. To the tenth interrogatory he says: The property was knocked off to a Mr. Foster, but after the sale, much to my surprise, I found that Mr. Veazie was the purchaser. He had told me previous to the sale, that he would not give more than twelve thousand dollars for it. He immediately desired a bond for the delivery of the deed. The bond was accordingly drawn with a penalty of fifty thousand dollars for the delivery of the deed, at Bangor, within ten days or a fortnight. After receiving the bond, and while he was folding it up, he said to me, that he thought it proper to state, now that he was secure himself, that an express had been fitted out for the purpose of purchasing this property before the news of the sale, by auction, could reach the owner; and it is my impression that he said that Mr. Wadleigh was engaged in it, but of this I am not positive. I left to go to Boston and obtain a deed and return to Bangor. I remained in Boston a day or two to complete the deed which, having been done, I set out to return to Bangor. Between Boston and Portsmouth I found, by some conversation with the passengers, that Mr. Veazie had passed us on the road going to Boston. I accordingly made arrangements to return to Boston and meet him, and thus save my journey to Bangor. On returning to Boston I found he had left there an hour or two previous to my arrival. A day or two after, I started for Bangor again, and overtook Mr. Veazie at Portland. We then tra-

velled together to Bangor. During the journey, he told me that he had made up his mind to give forty thousand dollars for the property; that it had been canvassed in his family, and arrangements been made to that effect, and that he had secured this Mr. Foster to hold him harmless to that amount, and that the journey he had made to Boston was to obtain knowledge that I had a deed for him, as he was suspicious, on the return of those who went on the express, that they had succeeded in their design. And by way of showing his anxiety, he told me that he had left Bangor for Boston on the evening of a large party given by his wife. He said that the value of this property to him was caused by a quarrel and law suit between him and Wadleigh, which rendered it of vast importance to either of them to obtain the property. He also said, that he had traced the person who conducted the express as far as the Tremont House, and there all trace of him was lost.

11. To the eleventh interrogatory he says. Previous to, and on the morning of the sale, Mr. Veazie manifested much indifference as to the purchase of the property, observing that he would give twelve thousand dollars for it, and no more. Of course I was surprised when I found he had given forty thousand dollars for it.

12. To the twelfth interrogatory he says. I have answered this in my reply to the tenth interrogatory. With regard to his family, he said that some members of it were desirous of going still higher than forty thousand dollars. I do not know of any thing further favorable to the defendants, only that Mr. Veazie knew perfectly well the property he had purchased, and no person ever appeared more satisfied with his bargain.

Answers to cross interrogatories.

1. To the first cross interrogatory he says. I answer this question in the affirmative.

2. To the second cross interrogatory he says. The auctioneer stood in or near the centre of the room, and Mr. Wadleigh advanced from the crowd and stopped the auctioneer. He advanced from one corner of the room, and I stood in another. I can't answer more definitely.

3. To the third cross interrogatory he says. I was present at the said sale, and was in the room during the whole period after the sale commenced, until the property was struck off. I do not recollect the highest audible bid, because bids at auction, as far as I know, are not made audibly, but in nods and winks; and I recollect seeing a person who was called Foster, nodding to the auctioneer from time to time, but I did not hear him make any audible bid. I heard bids occasionally, but do not remember the amounts.

3. To the third cross interrogatory he says. A large company was present in the room, but I took the auctioneer a little one side. It was immediately after it was knocked off, and not very far from the spot where he knocked it off. The precise language was as follows. He said that when he went into the room Wadleigh told him that the property must be his, when he knocked it off; and that when the bid had got up

to thirty-nine thousand dollars, he went up and stopped him, saying, "for God's sake, if you are bidding for me, stop." Mr. Wadleigh after going up and speaking to the auctioneer, mingled with the crowd.

4. To the fourth cross interrogatory he says. Immediately after the sale, I was informed by the auctioneer, that when Wadleigh stopped him at thirty-nine thousand dollars, he (the auctioneer) then bid the remaining one thousand dollars on his own responsibility, alternately with Foster. On my return to Boston, I related this (with every thing else that had transpired) to the defendants, my employers.

5. To the fifth cross interrogatory he says. Mr. Bright had been agent for the said property for many, say twelve or fourteen years, and as I understood without charge. The sale having terminated his agency, I heard that a present (as he was to be married, or was just married,) of some silver plate, was given or to be given to him. I know nothing upon this subject of my own knowledge. Mr. Bright was also authorized to act as agent with me in the sale of the property.

6. To the sixth cross interrogatory he says. Mr. Samuel Veazie assumed the ad, and said he was the purchaser, and that Mr. Foster bid for him. I never spoke to Foster on the subject that I know of.

STEPH. H. WILLIAMS.

UNITED STATES OF AMERICA, *District of Massachusetts, ss:*

Boston, the twenty-seventh day of August, A. D. 1842.

On this date, the aforesaid deponent, Stephen H. Williams, came before me, the subscriber, and having been by me carefully sworn to testify the truth, the whole truth, and nothing but the truth, touching the premises, he gave the foregoing deposition, which was reduced to writing by me, and subscribed by the said deponent in my presence. The deposition is taken by virtue of the commission hereto annexed, and to be used in the cause therein mentioned.

GEO. S. HILLARD, *Commissioner.*

And on the third day of December, of the same year, the following agreement of counsel is filed, viz:

CIRCUIT COURT OF THE UNITED STATES, *Maine district.*

SAMUEL VEAZIE,
vs.
STEPHEN WILLIAMS & al. } In equity.

In the above entitled cause it is agreed, that before the said bill was filed by the complainant against the defendants, the counsel of the complainant called on the witness, Head, who has been examined in this cause, and requested the said Head to state to him the facts and circumstances of the sale at auction, which is the subject of this suit; and upon a suggestion by the said Head that it might involve him in some pecuniary responsibility, the counsel of the complainant assured the said Head that the complainant would give him a release of all claims on his part. That afterwards, and before the said bill was filed, the

said Head was summoned to give a deposition in perpetuam, before two magistrates in Bangor, in the said district; and the complainant and his counsel, and also a gentleman of the bar, who appeared in behalf of the said respondents, being present, the release, a true copy whereof is hereto annexed, and which may be used instead of the original, was drawn by one of the said magistrates, and executed and delivered to the said Head by the said complainant. That the gentleman who then and there acted as counsel for the said respondents has not acted as counsel for them in this suit in equity; Messrs. Curtis of Boston, and Mr. Charles S. Davis of Portland, having conducted the defence of this suit; and neither they nor the respondents had any knowledge of this release, until after the publication of the evidence in this suit, when finding an allusion to it in the testimony of the said Head, they took measures to, and did procure a copy thereof. And it is further agreed, that the said release and the above facts and circumstances may be referred to and made use of in this cause, with the same effect as if the same had been put in issue by a cross bill, and admitted by the answer; and this agreement is to be made a part of the said case, and to be filed therein.

J. P. ROGERS,
For complainant.
C. P. & B. R. CURTIS,
For the respondents.

Know all men by these presents, that I, Samuel Veazie, of Bangor, in the county of Penobscot, and State of Maine, esquire, in consideration of one dollar to me paid by Henry *H.* Head and Nehemiah O. Pillsbury, both of said Bangor, auctioneers, and late copartners in the auction business, under the firm and style of Head and Pillsbury, the receipt whereof I do hereby acknowledge, do hereby release and discharge said Head and Pillsbury, jointly and severally, from all damages by me sustained, or supposed to be sustained, and from all action, or causes of action, to me accrued, or accruing in consequence of any misfeasance, non-feasance, or malfeasance, or any illegal management by them done, performed, or suffered, at the sale at auction of Nathaniel L. Williams and Stephen Williams' real estate, situated in Old Town, in said county of Penobscot, on or near Old Town falls, so called, which was sold at auction in or near January first, eighteen hundred and thirty-five, by the said Head and Pillsbury, as auctioneers; hereby also, releasing the said Head and Pillsbury from any claim for damage, by or in consequence of any of their proceedings relating to said sale of said property.

In witness whereof, I have hereto set my hand and seal, this twenty-first day of July, A. D. eighteen hundred and forty-one.

SAMUEL VEAZIE. [L. S.]

And said cause was thence continued from term to term to October term, A. D. eighteen hundred and forty-three, and on the fifteenth day of February, A. D. eighteen hundred and forty-four, the following motion and petition is filed by the plaintiff, viz:

CIRCUIT COURT OF THE UNITED STATES,
For Maine district:

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

To the judges of the circuit court of the United States for the Maine district.

The petition of Samuel Veazie, of Bangor, and a citizen of the State of Maine, the above complainant, respectfully represents, that on or about the day of , your petitioner filed his bill in this court against the aforesaid Nathaniel L. Williams and Stephen Williams; that the said Nathaniel and Stephen appeared to said bill, and filed their joint answers thereto; to which your petitioner filed a general replication; that at the last term of said court the case came on for a hearing, when it was discovered by your petitioner that a certain release which your petitioner had, prior to the filing of his said original bill, given to one Henry A. Head, who, in said bill is charged as the agent of these defendants, and for whose acts they are and ought to be charged, and which release came into the case by agreement of counsel, was invoked by these defendants in aid of their defence, upon the grounds that said bill sought to charge these defendants for the wrong and tort of the said Head, their agent, and that said Head being released from all damages, &c., it enured for the benefit of these defendants, and was a bar to said bill. And your petitioner further shows, that said release was not so intended by the parties thereto, and was so written by mistake; and your petitioner is advised, that it is necessary to reform said release in this respect, and to show the true intent and meaning of the parties thereto.

Your petitioner therefore prays, that leave may be granted to him to file a supplemental bill against the said Nathaniel and Stephen, setting forth at large the facts in relation to said agreement and understanding of the parties, and to show how said release was so written, and all proper interrogatories adapted thereto, and with such prayer for relief in the premises as may be proper.

And your petitioner will ever pray. J. P. ROGERS,
Of counsel for the petitioner.

Whereupon, it was ordered by the court, that leave be granted to file snch supplemental bill; and thereupon the plaintiff files the following, viz:

CIRCUIT COURT UNITED STATES, *Maine district:*

SAMUEL VEAZIE, in equity,
vs.
NATHANIEL L. WILLIAMS et al.

To the judges of the circuit court of the United States for the Maine district.

Samuel Veazie, of Bangor, and a citizen of the State of Maine, brings

this his supplemental bill against Nathaniel L. Williams, of Boston, and Stephen Williams, of Roxbury, and both citizens of the State of Massachusetts.

And whereupon your orator complains and says, by leave of this court first had, on or about the day of , he exhibited his original bill in this court against the said Nathaniel and Stephen.

And your orator further shows, that the defendants having been served with process to appear, appeared accordingly, and put in their answers to said bill, and your orator filed a general replication to the same, after which the parties respectively proceeded to their proofs.

And your orator further shows, by way of supplement, that after his replication aforesaid had been filed, and after the time for taking testimony had expired, but before publication, the counsel of these defendants applied to the counsel of your orator to admit the execution and delivery of a release by and from your orator to Henry A. Head, who, in your orator's original bill was alleged to have been the agent of these defendants, and for whose acts they were and ought to be charged.

And your orator further shows, that his said counsel, knowing that a release had been given by your orator to the said Head, as is hereinafter stated, and if available to the defendants could be introduced by the aid of a cross bill, to avoid the delay incident thereto, consented and agreed, that the release which was not then seen by said counsel, but which said counsel supposed truly to express the intention of the parties, might be referred in the hearing of said original bill with the same effect as if it had been put in issue by a cross bill, and admitted in the answer.

And your orator further shows, that said release had been delivered to said Head prior to his exhibiting his original bill, but the same was not set forth therein, because it was between other parties, and expressing the true intent and meaning of those parties, as your orator, until the original bill was set down for a hearing, supposed it did, did not concern these defendants, and could not, in any manner, affect the rights and equities of the parties to said original bill, and that it could or did affect the rights of your orator was not discovered until after publication had passed upon the testimony in said case.

And your orator further shows, that said release is not alleged in said original bill to have been given, neither is it relied upon or set forth in the answers of these defendants, and is put in issue as new matter by the aforesaid agreement of counsel.

And your orator further shows, that these defendants now insist, that said release is a legal satisfaction of the injury, whereof your orator, in his original bill complains; and that the same, and so as aforesaid in the case, is, in law and equity, a discharge and release, which enures for the benefit of these defendants, of all your orator's claims and equities in his original bill preferred against them.

And your orator further shows, that said Head paid him no consideration for said release, and has made him no satisfaction for the loss and

injury which he has sustained as set forth in his original bill; and that said release, whatever may be its terms, or the legal effect of it, as thus expressed, was not intended by the parties to it to discharge, or in any way or manner to impair, any claim which your orator had or might have against these defendants growing out of their or the said Head's acts or doings in the premises; and that said release, if in its terms it imports a different significance, is a fraud upon your orator, and was so written by mistake.

And your orator further shows, that said release was not given in pursuance of any agreement or understanding between your orator and the said Head, that he was informed by his counsel, that upon said counsel's application to said Head for a disclosure of such facts as were within his knowledge, respecting the matters set forth in your orator's original bill, said Head declined to make a disclosure, upon the grounds that your orator might sue him, the said Head, and that he did not want a law suit with your orator; that his counsel then assured the said Head, that that was not the purpose of your orator, but that he desired the proof for the sole purpose of instituting proceedings in equity against these defendants, and that your orator would give him an obligation which should release him from all suits against him on behalf of your orator.

And your orator further shows, that the agreement in pursuance of which said release was executed, and the only agreement of which it was a consummation, was made between the counsel of your orator and the said Head; and that your orator had no conversation with the said Head about said agreement or release, but that his counsel in the presence of the magistrates, before whom the said Head was called to give his deposition, and in the presence of the attorneys of these defendants, requested one of said magistrates to write a release or some agreement, the language of which request your orator could not state, and does not recollect, and your orator signed without inquiry the paper so executed; that Head's liability to these defendants was at no time the subject of negociation or conversation, and that no indemnity therefrom was at any time asked, or offered, or intended.

And your orator is advised that said release, according to the intent and meaning of the parties thereunto, was not intended to express an acknowledgment of satisfaction, or to intend any agreement beyond a a stipulation that for any and injuries which your orator had sustained in the premises, his remedies should not be applied against the said Head, and that said release should be so construed and reformed.

To the end, therefore, that the said defendants may, if they can, show why your orator should not have the relief hereby prayed, and may, upon their several and respective knowledge, information, and belief, full, true, direct, and perfect answers make, to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written they are respectively required to answer, that is to say:

1. Whether they have any knowledge respecting any statement or

charge in this supplemental bill; if yea, state what knowledge they possess respecting the same, and how they acquired such knowledge.

2. Whether they possess any, and what information respecting the matters charged or stated in said bill, and how the same was acquired.

3. Whether they entertain any belief in respect to the same, and the grounds of such belief, and their belief.

And that your orator may have, in his original bill at the hearing, the full benefit of the evidence in this his supplemental bill; that said release be reformed so as to express the true intent of the parties; that such intent as may be proved may be given to it; that it may be restrained in its legal effects by that intent; and for such other and further relief in the premises as to your honor shall seem meet.

May it please your honor to grant unto your orator a writ of subpœna to be directed to the said Nathaniel L. Williams and Stephen Williams, thereby commanding them, at a certain day and under a certain penalty therein to be limited, personally to be and appear before your honorable court, and then and there full, true, direct, and perfect answers make to all and singular the premises, and further to stand to, perform, and abide such further order, direction, and decree therein, as to your honorable court shall seem meet. And your orator shall ever pray.

SAMUEL VEAZIE, by
WM. P. PREBLE,
His attorney.
J. P. ROGERS,
Of counsel for complainant.

Note.—The defendants are required to answer the interrogatories numbered respectively 1, 2, and 3.

And on the twenty-ninth day of the same February, the defendants file the following answer, viz:

Circuit court of the United States, district of Maine.

SAMUEL VEAZIE
vs.
NATHANIEL L. WILLIAMS & al. } In equity.

The joint and several answer of Nathaniel L. Williams and Stephen Williams to the supplemental bill of complaint of the said Samuel Veazie.

These respondents, saving to themselves all benefit of exception to the said supplemental bill, for answer thereto, or so much thereof as they are advised it is material that they should answer unto, answering, say: that they have been informed, and believe it to be true, and do therefore admit that the said original bill, and a replication to the joint and several answer of these defendants, were filed, as it is stated, in the said supplemental bill, and the parties did thereupon proceed to take their proofs in the said cause. That after the time for taking the testimony in the said cause had expired, and after publication thereof, the counsel for these defendants having discovered, from the answer of one

Head, who was examined as a witness in the said cause, to the sixth direct interrogatory proposed to him by the said plaintiff, that some release had been executed by the said Veazie to the said Head, touching the matters in controversy in the said cause, applied to the said Head and obtained a copy of such release. Each of these respondents declares that he had not, and to the best of the knowledge, information, and belief of each of them, the other of them had not, nor had either of the solicitors or counsel of these respondents in the said cause, any notice or knowledge of the said release, prior to the discovery thereof in manner aforesaid. And these respondents further answering admit, that the counsel of these respondents did apply to the counsel of the said Veazie, and did request him, in behalf of the said Veazie, to agree that the said release might be put into the said cause and availed of therein, as if the same had been put in issue by a cross bill; and the said counsel of the said Veazie did reply that he would so agree, provided certain facts, which were then and there stated in writing by the said Veazie's counsel, should be agreed to and accompany the release; and thereupon the agreement was made and signed, which was filed in the said cause, and to which these respondents crave leave to refer. These respondents admit that the said release was *was* not put in issue by the said original bill, but these respondents are wholly ignorant of the motives or reasons which prevented the said Veazie from putting the said release in issue; and these respondents admit that the said release was not put in issue by the answer of these respondents to the said original bill, inasmuch as these respondents were ignorant of the existence of the said release at the time when their answer was filed.

These respondents admit that they do now insist that the said release is a bar to the said original bill, and that they and each of them are thereby discharged from all the matters of complaint in the said original bill set forth. These respondents do not know, and have never been informed, otherwise than as they are by the said supplemental bill, and cannot set forth what consideration, if any, was paid by the said Head to the said Veazie for the said release; but these respondents insist, and humbly submit, that no consideration was necessary to the complete and perfect validity of the said release. And as to the intentions of the said parties, and their understanding that the said release would or would not have the legal effect of discharging these respondents from the pretended claims of the said Veazie, set forth in the said original bill, these respondents answering, say, that these respondents, and to the best of their knowledge and belief, the said Head also, have acted in good faith, so far as concerns the said release; that they, nor either of them, have, or has practised any fraud or imposition, to procure the same, or to cause any terms or language to be used therein which the said Veazie did not intend to use; that no such fraud or imposition, or want of good faith, is charged or averred in the said supplemental bill; that these respondents are informed, and believe, that the said release was signed by the said Veazie, and its language and terms agreed to by him, in the presence and under the advice of his counsel, learned in the law, and

were, and are such as were, selected by the person employed by both the said Veazie and Head to draw the said release; and the same were assented to by the said Veazie, under no mistake of any fact whatsoever. And therefore these respondents do insist, and submit to this honorable court, that it is not competent for the said Veazie to offer any proof whatever to control, or alter, or affect the legal import and effect of the said release; and they pray that they may have the same benefit of this objection, as if the same had been taken by way of a plea or demurrer to the said supplemental bill. And as to the intent of the said Veazie and Head, and as to the agreement between them, or the inducements which led thereto, or the objects designed to be effected by the said release, these respondents, not waiving their objection aforesaid, but insisting thereon, answering, say, that they have no knowledge thereof; but they have been informed by the said Head, and believe it to be true, that before the said release was given, the duly authorized attorney of the said Veazie had promised that the said Veazie would give to the said Head a writing, holding him, the said Head, harmless from all claims and demands growing out of or connected with the auction sale in the said original bill mentioned; and that the said release was subsequently given pursuant to, and in execution of, the said promise.

But these respondents do not believe, and do therefore deny, that the said Head had any understanding or expectation, that after a writing of indemnity, so promised as aforesaid, should be executed, he, the said Head, should still be liable to any action or claim for damages by these respondents; or that the said Head understood or expected that any such construction or effect could or would be given to the said release, as would prevent the same from holding him harmless from the claims of these respondents; and as to the understanding or expectations of the said Veazie, these respondents are not informed, except by the said supplemental bill, and cannot set forth the same. And as to so much of the said supplemental bill as prays that the said release may be reformed or construed otherwise than according to its legal effect, these respondents insist, and submit, that the said supplemental bill does not show any right to have any particular change, or any change, made in the said release, and they pray that they may have the same benefit of this objection, as if the same had been taken by way of plea or demurrer to the said supplemental bill.

NATHANIEL L. WILLIAMS.
S. WILLIAMS.

U. S. A., DISTRICT OF MASSACHUSETTS:

First circuit.

This twenty-eighth day of February, A. D. eighteen hundred and forty-four, personally appeared before me each of the above named Nathaniel L. Williams and Stephen Williams, and made oath that the matters and facts by him above stated were true, so far as stated on his knowledge, and so far as stated on the knowledge of others, he believed them to be true. EDW. G. LOUNG, *Commissioner*.

And on the fourth day of March, then next, the plaintiff files his replication thereto, viz:

In chancery.

The replication of Samuel Veazie to the answer of Nathaniel L. Williams and Stephen Williams, defendants, to the supplemental bill of complaint of the said Samuel Veazie.

This repliant, saving to himself all and all manner of exception to the manifold insufficiencies in said answer, for replication, says, that he will aver and prove his said supplemental bill to be true, certain, and sufficient in law to be answered unto; and that the said answer of the said defendants is uncertain, untrue, and insufficient in law to be replied to by this repliant; without this, that any other matter or thing whatsoever, contained in said answer, material or effectual in the law to be replied unto, is true; and which matters and things this repliant will aver and prove as this honorable court shall direct, and humbly prays as he has already prayed.

WM. P. PREBLE & SON,
Solicitors for complainant.

And on the ninth day of August, then next, the following bill of revivor was filed by the plaintiff, viz:

Circuit court, U. States, Maine district.

SAMUEL VEAZIE,
vs.
NATHANIEL L. WILLIAMS and others.

To the honorable the justices of the circuit court of the United States, for the first circuit, in and for the Maine district.

Humbly shews your orator, Samuel Veazie, the above named complainant, that heretofore he exhibited his bill in this court, against Nathaniel L. Williams, of Boston, and Stephen Williams, of Roxbury, stating in substance that the said Nathaniel and Stephen, employed one Henry A. Head to sell at auction certain real estate in the town of Orono, and that the said Head, as auctioneer and agent of the said respondents, did fraudulently sell the same to your orator, and received from him large sums of money therefor, and did subsequently commence a suit against your orator upon one certain promissory note, given for the same; and praying that the said defendants may be enjoined from further prosecuting said suit, that the said note be delivered up to your orator, that said sale by rescinded and annulled, and that said defendants pay back such sums as they had received, and for other and further relief in the premises. That said defendants appeared in said suit, put in their answers to such bill, to which a replication was filed, the proofs taken, and the cause set down for a hearing. And your orator would further represent, that subsequently, by leave of court, he filed in this honorable court a supplemental bill against these defendants, stating in substance that a certain release, which these defendants introduced in evidence in said original bill, did not express the true in-

tent and meaning of the parties thereto, and praying that the same be reformed accordingly; that said defendants appeared in said suit, put in their answers, to which a replication was filed and a part of the proofs taken.

That on or about the first of July, instant, the said Stephen Williams departed this life, having duly made his last will and testament, and thereby appointed Louisa Williams, his widow, executrix of his said last will, who had duly proven the same, and taken upon herself the burthen of the execution thereof; and that as such executrix she has possessed herself of the personal estate of the said Stephen Williams, sufficient to pay his funeral expenses and lawful debts, and to satisfy the demand of your orator. And your orator further shews unto your honors, that the said suit having become abated by the death of the late defendant, your orator is, as he has been advised, entitled to have the said suits revived against the said Louisa Williams, as the widow, and executrix of the said Stephen Williams, and to have the said decree and other proceedings had thereon, prosecuted and carried into full effect against the said Louisa Williams, in like manner as they could or might have had if the said late defendant had been still living.

To the end, therefore, that the said Louisa Williams may shew cause, if she can, why the said suits and procedings therein should not stand and be revived against her as such executrix of the said late defendant as aforesaid, and be in the same plight and condition as the same were in at the time of the abatement thereof, and that the said suit and proceedings had therein may stand and be revived accordingly.

May it please your honors to grant unto your orators the people's writ of subpœna to revive, issuing out of and under the seal of this honorable court, to be directed to the said Louisa Williams, thereby commanding her, by a certain day and under a certain penalty to be therein expressed, personally to be and appear before your honor in this honorble court, and then and there to shew cause, if she can, why the said suit, and the proceedings therein had, should not stand and be revived against her, and be in the same plight and condition as the same were at the abatement thereof; and further to stand and abide such order and decree in the premises as to your honor shall seem meet.

SAMUEL VEAZIE.
J. P. ROGERS, *Solicitor*.

DISTRICT OF MAINE, *ss:*

August 1, 1844.

Subscribed and sworn to before me
FRED. HOBBS, *Commissioner*.

Whereupon the following subpœna issued, viz:

The President of the United States of America, to Louisa Williams, widow of Stephen Williams, late of Roxbury, in the Commonwealth of Massachusetts, deceased, as she is executrix of the last will and testament of the said Stephen Williams, and a citizen of said commonwealth, greeting.

[L. S.]

For certain causes offered before the circuit court of the United States, for the first circuit, as a court of chancery.

We command and strictly enjoin you, laying all other matters aside, and notwithstanding any excuse, that you personally appear before the circuit court aforesaid, next to be holden at Portland, within and for Maine district, on the first day of October next, at ten of the clock in the forenoon, to answer concerning those things which then and there may be objected against you, by Samuel Veazie of Bangor, in the county of Penobscot and State of Maine; esquire, and a citizen of said State of Maine, and to do further and receive that which said court shall do and order in this behalf. And this you are in no wise to omit. And have you there this writ.

Witness the honorable Roger B. Taney, chief justice of the United States of America, at Portland, the twentieth day of August, in the year of our Lord one thousand eight hundred and forty-four.

JOHN MUSSEY, *Clerk.*

And said cause was thence continued to the next term; at which term the following proceedings are had, viz:

CIRCUIT COURT U. S., *Maine district:*

May term, 1845.

SAMUEL VEAZIE, in equity,
vs.
Stephen L. WILLIAMS & al.

And now the solicitors for the defendants, on behalf of Louisa Williams, executrix of the said Stephen Williams, deceased, acknowledge service of said subpœna; and, to speed the cause, waive the delay of further proceedings on the said bill of revivor, and agree that the bill do henceforth stand revived as prayed for; and that said cause proceed to a hearing at this term.

C. P. & B. R. CURTIS,
Solicitors for defendants, S. and N. L. Williams, and Louisa Williams, executrix.

Whereupon the cause proceeded to a hearing, and on the twenty-sixth day of August, eighteen hundred and forty-five, the following decree is passed, viz:

This cause came on to be heard at this term upon the bill, answer pleadings, and evidence, and was argued by counsel. On consideration whereof, the judges of the court being divided in opinion on the merits of the cause, it is thereupon ordered and decreed by the court that the bill be dismissed without costs to either party.

JOSEPH STORY,
Associate justice of the Supreme Court of the United States.
ASHUR WARE,
District judge.

And thereupon, the plaintiff claims an appeal therefrom, as follows viz:

To the honorable the judges of the circuit court of the United States, held at Portland, within and for the Maine district, on the first day of May, A. D. eighteen hundred and forty-five.

In the matter or bill in equity, wherein Samuel Veazie is complainant, and N. L. Williams & al., defendants.

The court having in this cause ordered and decreed, upon a hearing of the cause, that the complainant's bill be dismissed, the said complainant here in court claims an appeal from the same order and decree to the Supreme Court of the United States, and prays the court here that his said claim may be duly granted and allowed.

By WM. P. PREBLE & SON, and
JONA. P. ROGERS,
His solicitors.

Know all men by these presents, that we, Samuel Veazie as principal, and John McDonald as surety, both of Bangor, in the county of Penobscot, in Maine district, are held and firmly bound unto N. L. Williams and Louisa Williams, executrix of S. Williams, of Boston, in the Commonwealth of Massachusetts, citizens of the United States, in the sum of two hundred dollars, to be paid to the said N. L. Williams and Louisa Williams, executrix, on demand. To the payment of which sum we bind ourselves, our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, dated the twenty-sixth day of November, in the year of our Lord one thousand eight hundred and forty-five. The condition of the foregoing obligation is such, that whereas, at the circuit court of the United States, for the first circuit, begun and holden at Portland, within and for said Maine district, on the first day of May instant, in a suit in equity, wherein the said Veazie was plaintiff, against S. and N. L. Williams, case came on to be heard twenty-sixth day of August, eighteen hundred and forty-five; on consideration whereof, the judges of the court being divided in opinion on the merits of the cause, it was thereupon ordered and decreed, that the bill be dismissed without costs to either party; for the reversal and rescinding of which decree the said Samuel Veazie has appealed from said circuit court to the justice of the Supreme Court of the United States, to be holden at the city of Washington, on the first Monday of December next. Now, if the said Samuel Veazie shall prosecute his said appeal to effect, and shall answer all damages and costs, if he shall fail to maintain his said suit in equity, and to obtain a reversal and rescinding of the decree aforesaid, then the foregoing obligation to be void, otherwise to remain in full force and virtue.

SAMUEL VEAZIE, [L. S.]
JOHN DcDONALD. [L. S.]

In presence of—
ALBERT W. PAINE.

Upon the filing of the foregoing prayer, together with the bond aforesaid and the same being approved, the said appeal is allowed.

UNITED STATES OF AMERICA,
Maine district, ss:

I, John Mussey, clerk of the circuit court of the United States for the first circuit for Maine district, do hereby certify the foregoing, contained on one hundred and fifty-four pages as numbered, to be a true copy, as of record, of the bill, answers, exhibits, proofs, and proceedings, in the case of Samuel Veazie, plaintiff in equity, against Nathaniel L. Williams and another, defendants, determined in said circuit court, at May term, A. D. eighteen hundred and forty-five.

In testimony whereof, I have hereunto set my hand and affixed the seal of said circuit court, at Portland, on this twenty-ninth day [SEAL.] of November, A. D. eighteen hundred and forty-five.

JOHN MUSSEY.

Filed 15th January, 1846.

SUPREME COURT OF THE UNITED STATES.

No. 169.

THE UNITED STATES, APPELLANTS,

vs.

Carr

BURROUGHS E. ~~CAN~~ & JOHN PECK, CLAIMANTS OF 16 BOXES OF HAVANA SUGAR, 12 BASKETS OF CHAMPAGNE WINE, &c.

ON APPEAL FROM THE COURT OF APPEALS FOR THE TERRITORY OF FLORIDA.

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J. & G. S. Gideon, Printers.

Pleas at the court-house in the city of Tallahassee, before the honorable the judges of the court of appeals for the Territory of Florida, at the January term, 1845, of said court.

Be it remembered that, heretofore, to wit, on the 6th day of January, 1845, came the United States of America, by Charles S. Sibley, esq., district attorney of the United States for the middle district of Florida, and filed with the clerk of the court of appeals for the Territory of Florida the following transcript:

Before the honorable Isaac H. Bronson, judge of the superior court for the district of East Florida, in admiralty.

Be it remembered, that on the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and forty-four, Thomas Douglass, esq., attorney of the United States for the district of East Florida, brought and filed in the clerk's office of the said court his libel, in the name and on behalf, as well of the United States, as of Augustus W. Walker, esquire, collector of the port of St. Augustine, in the district aforesaid, and other persons concerned, against Sixteen boxes of sugar, twelve baskets of Champagne wine, twenty-five sacks of Liverpool salt, five cases and five baskets of olive oil, ten boxes of French cordial, seven casks of London porter, two casks of Scotch ale, two half pipes of French brandy, one pipe Holland gin, thirty half boxes and twenty-four quarter boxes of raisins, ten bags of cassia, two boxes of citron, five chests of tea, one frail (or basket) of almonds, three drums of figs, two boxes of lemons, and ten bags of coffee; which said libel is in the words and figures following, to wit:

The United States of America:

To the honorable Isaac H. Bronson, judge of the superior court for the district of East Florida.

Be it remembered, that on the 29th day of January, in the year of our Lord one thousand eight hundred and forty-four, before the honorable Isaac H. Bronson, judge as aforesaid, comes here into court, in his own proper person, Thomas Douglass, esquire, attorney for the United States for said district, and in the name and on behalf, as well of the United States aforesaid, as of Augustus W. Walker, esquire, collector of the port of St. Augustine, in the district aforesaid, and other persons concerned, propounds and gives the said judge to understand and be informed, that at a time past, to wit, on the twenty-seventh day of January, instant, at the port of St. Augustine aforesaid, in the said district, and on waters navigable from the sea by vessels of ten or more tons burthen, he, the said Augustus W. Walker, collector of the aforesaid port, did seize, and now hath in his custody, as being forfeited, sixteen boxes of Havana sugar, twelve baskets of Champagne wine,

twenty-five sacks of Liverpool salt, five cases and five baskets of olive oil, ten boxes of French cordial, seven casks London porter, two casks of Scotch ale, two half pipes of French brandy, one pipe Holland gin, thirty half boxes and twenty-four quarter boxes of raisins, ten bags of cassia, two boxes of citron, five chests of tea, one frail or basket of almonds, three drums of figs, two boxes of lemons, and ten bags of coffee; which same sugar, wine, salt, oil, cordial, porter, ale, brandy, and gin were then in these waters, merchandise of foreign manufacture; and the same raisins, cassia, citron, tea, almonds, figs, lemons, and coffee were then and there merchandise of foreign growth, all of said merchandise being other than sea stores; for that each and all of said articles of foreign merchandise above mentioned and specified at a time past to wit, on the twenty-sixth day of January inst., were brought to the said port of St. Augustine, in the district aforesaid, from the port of New York, in the district of New York, on board of a certain vessel called the schr. Hope W. Gaudy; which same schooner Hope W. Gaudy had, before that time, been, and then and there was, licensed to carry on the coasting trade, the said merchandise then and there belonging, or was consigned to B. E. Cantell, of St. Augustine aforesaid; and then and there was not (nor was any part thereof) specified or certified in the manifest of the cargo of the said vessel, as is required by the act of the Congress of the same United States, in such case made and provided, contrary to the form of the statute in such case made and provided, *contrary to the form of the statute in such case made and provided*, and against the *face* and dignity of the United States of America.

And the said attorney, in the name and on behalf, as well of the same United States as of Augustus W. Walker, collector as aforesaid, and other persons concerned as aforesaid, further propounds and gives the said judge to understand and be informed, that at a time past, to wit, on the same twenty-seventh day of January, instant, at the port of St. Augustine aforesaid, and on waters navigable from the sea by vessels of ten or more tons burthen, he, the said Augustus W. Walker, esquire, collector as aforesaid, did seize, and now hath in his custody as being forfeited, sixteen other boxes of Havana sugar, twelve other baskets of Champagne wine, twenty-five other sacks of Liverpool salt, five other cases and five other baskets of olive oil, ten other boxes of French cordial, seven other casks of London porter, two other casks of Scotch ale, two other half pipes of French brandy, one other pipe of Holland gin, thirty other half boxes and twenty-four quarter boxes of raisins, ten other bags of cassia, and two other boxes of citrons, five other chests of tea, one other frail or basket of almonds, three other drums of figs, two other boxes of lemons, and ten other bags of coffee; which same sugar, wine, salt, oil, cordial, porter, ale, brandy, and gin, were then and there merchandise of foreign manufacture; and the same raisins, cassia, citrons, tea, almonds, figs, lemons, and coffee were then and there merchandise of foreign growth, (all of the same merchandise being other than sea stores;) for that each and all the articles of merchandise in this last count above specified and mentioned at a time past, to wit, on the same

twenty-sixth day of January instant, above mentioned, were brought to the port of St. Augustine, in the district of East Florida aforesaid, from the port of New York, district of New York, on board of a certain other vessel called the schr. Hope W. Gaudy; which same schooner was then and there found trading between district and district, to wit, between the district of New York aforesaid and the said district of St. Augustine aforesaid; and each and all of the said articles of foreign merchandise were, by the said Augustus W. Walker, collector as aforesaid at the port of St. Augustine aforesaid, in the district last aforesaid, on the said twenty-seventh day of January instant, aforesaid, found on board of the said schooner, which same schooner is upwards of twenty tons, to wit, of one hundred and forty tons burthen, or thereunto, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America: by reason whereof, and by the force of the said statute, the said merchandise has become forfeited to uses specified by law.

Wherefore the said attorney of the United States prays advisement of the court here in the premises, and for monition and other proper process; to the end that all of the said foreign manufactured merchandise above mentioned and specified may be decreed to be and remain forfeited accordingly.

THOMAS DOUGLASS, *U. S. Atty.*

And afterwards, to wit, on the same twenty-ninth day of January, in the year aforesaid, an attachment was duly issued from the office of the clerk aforesaid against the said property mentioned and described in the foregoing libel; which said attachment or warrant of seizure was in the words and figures following, to wit:

The President of the United States to the marshal of the district of East Florida, greeting:

You are hereby commanded to take and safely keep sixteen boxes of Havana sugar, twelve baskets of Champagne wine, twenty-five sacks of Liverpool salt, five cases and five baskets of olive oil, ten boxes of French cordial, seven casks of London porter, two casks of Scotch ale, two half pipes of French brandy, one pipe Holland gin, thirty half boxes and twenty-four quarter boxes of raisins, ten bags of cassia, two boxes of citrons, five chests of tea, one frail or basket of almonds, three drums of figs, two boxes of lemons, and ten bags of coffee, lately seized by Augustus W. Walker, esq., collector of the collection district of St. Augustine, and hold the same until the further order of the superior court for the district of East Florida, to answer the libel and complaint of the United States; and how you shall execute this warrant you make known unto us at the court-house, in the city of St. Augustine, on the 21st day of February next; and have you then and there this writ.

In testimony whereof, the Hon. Isaac H. Bronson, judge of our said court, hath caused the seal of said court to be hereunto affixed, this 29th day of January, A. D. 1844.

[L. S.]

GEORGE R. FAIRBANKS, *Clerk.*

Marshal's return.

Executed, by taking possession of the several articles of merchandise specified within, January 30th, 1844.

JOHN BEARD, *Marshal.*

Monition.

And afterwards, to wit, on the same 29th day of January, in the year aforesaid, a monition was duly issued, from the clerk's office aforesaid, and delivered to the said marshal; which said monition was in the words and figures following, to wit:

United States of America, district of East Florida:

To the marshal of the United States for the district of East Florida, greeting:

Whereas, a libel hath been filed in the superior court for the district of East Florida, on the twenty-ninth day of January, inst., by Thomas Douglass, esquire, attorney for the United States for the eastern district of Florida, and in the name and on behalf, as well of the same United States, as of Augustus W. Walker, collector of the port of St. Augustine in said district, and of all other persons concerned, against Sixteen boxes of Havana sugar, twelve baskets of Champagne wine, twenty-five sacks of Liverpool salt, five cases and five baskets of olive oil, ten boxes of French cordial, seven casks of London porter, two casks of Scotch ale, two half pipes of French brandy, one pipe of Holland gin, thirty half boxes and twenty-four quarter boxes of raisins, ten bags of cassia, two boxes of citrons, five chests of tea, one frail or basket of almonds, three drums of figs, two boxes of lemons, and ten bags of coffee, propounding and giving the said judge to understand and be informed, that at a time past, to wit, on the twenty-seventh day of January, instant, at the port of St. Augustine aforesaid, in the said district aforesaid, and on waters navigable from the sea by vessels of ten or more tons burthen, he, the said Augustus W. Walker, esq., collector as aforesaid of the said district as aforesaid, did seize, and now hath in his custody, as being forfeited, sixteen boxes of Havana sugar, twelve baskets of champagne wine, twenty-five sacks of Liverpool salt, five cases and five baskets of olive oil, two boxes of French cordial, seven casks of London porter, two casks of Scotch ale, two half pipes of French brandy, one pipe of Holland gin, thirty half boxes and twenty-four quarter boxes of raisins, ten bags of cassia, two boxes of citrons, five chests of tea, one frail or basket of almonds, three drums of figs, two boxes of lemons, and ten bags of coffee; which same sugar, wine, salt, oil, cordial, porter, ale, brandy, and gin, were then and there merchandise of foreign manufacture; and the same raisins, citrons, cassia, tea, almonds, figs, lemons, and coffee, were then and there merchandise of foreign growth, (all of said merchandise being other than sea stores;) for that each and all of the said articles of foreign merchandise above mentioned and specified, at a time past, to wit, on the twenty-sixth day of January, instant, were brought to the said port of St. Au-

gustine, in the district aforesaid, from the port of New York, in the district of New York, on board of a certain vessel called the schooner Hope W. Gaudy, which said schooner Hope W. Gaudy had before that time been, and then and there was, licensed to carry on the coasting trade; the said merchandise then and there belonging to B. E. Cantello, of St. Augustine aforesaid; and then and there was not (nor was any part thereof) specified or certified in the manifest of the cargo of the said vessel, as is required by the act of Congress of the same United States in such cases made and provided, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

And the said attorney, in the name and on the behalf, as well of the said United States, as of the said Augustus W. Walker, collector as aforesaid, and other persons concerned as aforesaid, further propounded and gave the said judge to understand and be informed, that at a time past, to wit, on the same twenty-seventh day of January, instant, at the port of St. Augustine aforesaid, in the district of East Florida aforesaid, and on waters navigable from the sea by vessels of ten or more tons burthen, he, the said Augustus W. Walker, esquire, collector as aforesaid, did seize, and now hath in his custody, as being forfeited, sixteen other boxes of Havana sugar, twelve other baskets of Champagne wine, twenty-five other sacks of Liverpool salt, five other cases and five other baskets of olive oil, ten other boxes of French cordial, seven other casks of London porter, two other *casks* of Scotch ale, two other half pipes of French brandy, one other pipe of Holland gin, thirty other half boxes and twenty-four other quarter boxes of raisins, ten other bags of cassia, and two other boxes of citrons, five other chests of tea, one other frail or basket of almonds, three other drums of figs, two other boxes of lemons, and ten other bags of coffee; which same sugar, wine, salt, oil, cordial, ale, porter, brandy, and gin, were then and there merchandise of foreign manufacture; and the same raisins, cassia, citrons, tea, almonds, figs, lemons, and coffee, were then and there merchandise of foreign growth, (all of the same merchandise being other than sea stores;) for that each and all of the articles of merchandise in this last count above mentioned and specified, at a time past, to wit, on the same twenty-sixth day of January, instant, abovementioned, were brought to the said port of St. Augustine, in the district of East Florida, aforesaid, from the port of New York, in the district of New York, on board of a certain other vessel, called the schooner Hope W. Gaudy, which same schooner was then and there found trading between district and district, to wit, between the district of New York aforesaid, and the said district of St. Augustine aforesaid; and each and all of the said articles of foreign merchandise were, by the said Augustus W. Walker, collector, as aforesaid, at the port of St. Augustine aforesaid, in the district last aforesaid, on the said twenty-seventh day of January, instant, aforesaid, when he so seized the same as aforesaid, found on board of the said schooner, which same schooner is upwards of twenty tons, to wit, of one hundred and forty tons burthen, or thereabouts, con-

trary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

You are therefore hereby authorized, empowered, and strictly enjoined, peremptorily to cite and admonish all persons whatever, having or pretending to have any right, title, interest, or claim, in or to the said before mentioned merchandise, or any part or portion thereof, by publicly affixing to the mainmast of said vessel herein before named, for some time, and by leaving there affixed, a true copy hereof, and by all other lawful means, ways, and methods whatsoever, whereby this monition may be made most public and notorious, to be and appear before the judge of our superior court for the district of East Florida, at the court house in the city of St. Augustine, on Wednesday, the 21st day of February next, at ten o'clock in the forenoon of that day, to hear, abide by, and perform, all and singular such judicial acts as are necessary and by law required to do, and receive what unto law and justice shall appertain, under the pain of the law and the contempt thereof, the absence and contumacy of them in any wise notwithstanding; and whatsoever you shall do in the premises, you shall certify unto the judge aforesaid at the time and place aforesaid, together with these presents.

In testimony whereof, the honorable Isaac H. Bronson, judge of said court, hath caused the seal of said court to be hereunto affixed, this 30th day of January, A. D. 1844.

[L. S.] GEORGE R. FAIRBANKS, *Clerk.*

Marshal's return thereon.

Executed January 31st, 1844, by nailing a copy hereof to the mainmast of schooner Hope W. Gaudy, and further, by furnishing an abstract for publication in the "News."

JOHN BEARD, *Marshal.*

Claim and answer of claimants.

And afterwards, to wit, on the eleventh day of March, in the year of our Lord one thousand eight hundred and forty-four, in open court, came Burroughs E. Can and John Peck, by Benjamin A. Putman, esquire, their proctor, and filed in open court their claim and answer to the libel of the United States, in the words and figures following, to wit:

Superior court, east. dist. Florida, in admiralty.

The United States of America, district of East Florida, ss:

The claim and answer of B. E. Can, of the city of St. Augustine, in behalf of himself and John Peck, of the city of New York, composing the mercantile firm of B. E. Can & Co., to the libel filed on the twenty-ninth day of January, in the year of our Lord one thousand eight hundred and forty-four, by Thomas Douglass, esq., attorney of the United States for the eastern district of Florida aforesaid, against Sixteen boxes of Havana sugar, twelve baskets of Champagne wine, twenty-five sacks of Liverpool salt, five cases and five baskets of

olive oil, ten boxes of French cordial, seven casks of London porter, two casks of Scotch ale, two half pipes of French brandy, one pipe Holland gin, thirty half boxes and twenty-four quarter boxes of raisins, ten bags of cassia, two boxes of citrons, five chests of tea, one frail or basket of almonds, three drums of figs, two boxes of lemons, and ten bags of coffee:

This claimant, not confessing or acknowledging all or any of the matters and things alleged by the said Thomas Douglass, esquire, on behalf of the United States, as well as of Augustus W. Walker, esquire, collector of the port of St. Augustine, in the district of East Florida aforesaid, and other persons concerned, filed in this cause; and now, and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of exception to the manifest errors and insufficiencies in the said libel contained, and the right to put in and make such other or further claim and allegation as he may be advised, says, that he and the said John Peck are the owners of the said goods, wares, and merchandises in the said libel mentioned, and every part thereof; and that the said goods, wares, and merchandises did not, nor did any part thereof, become forfeited in the manner and form as the said libel alleged.

Wherefore, the said claimant prays, that the said libel may *may* be dismissed, and that the said goods, wares, and merchandises may be restored to him.

B. E. CAN.

B. A. PUTMAN,
Proctor for claimants.

Sworn before me, this 11th day of March, A. D. 1844.
GEO. R. FAIRBANKS, *Clerk.*

Entry of Record.—Exceptions to answer.

And afterwards, to wit, on the same eleventh day of March, in the year of our Lord one thousand eight hundred and forty-four, at the court house aforesaid, before the judge aforesaid, the following entry of record was made in said cause, to wit:

THE UNITED STATES
vs.
Sixteen Boxes of Havana Sugar, Twelve Baskets of Champagne Wine, &c. } In admiralty.

And now, at this day, comes Thomas Douglass, esquire, counsel for the United States in this behalf, and excepts to the claim and answer of the said claimants, Burroughs E. Can and John Peck, for that their said answer is general, and does not answer the specifications of the libel, and moves the court that the said claimants be required to put in a further and better answer; and argument of the said exceptions having been fully heard, as well on the part of the said claimants as of the said United States, it is ordered, that the said claimants amend their

answer, and answer the several specifications in the said libel contained forthwith.

Entry of record.

And afterwards, to wit, on the eleventh day of March, in the aforesaid year of our Lord one thousand eight hundred and forty-four, at the court house in the city of St. Augustine, to which said day the said cause had come by regular continuance, the following entry of record was made in said cause, to wit:

THE UNITED STATES, libellants,
vs.
Sixteen boxes of Havana sugar, twelve baskets of Champagne wine, &c., &c. } Libel.

And now, at this day, comes Thomas Douglas, esq., attorney of the United States; and also comes Borroughs E. Can, for himself, and John Peck, as claimants of the said merchandise and goods, and crave leave to file herein the claim and answer of the said Burroughs E. Can and John Peck to the libel in this cause; and thereupon they, the said Borroughs E. Can and John Peck, by the said Borroughs E. Can, appeared in open court, and submitting themselves to the jurisdiction of this court, do bind themselves, their heirs, executors, and administrators, jointly and severally, by these presents, in the sum of two hundred and fifty dollars, to the United States of America, for the payment of all costs and charges that may be awarded in this case against them in this court, or in any court of appellate jurisdiction to which this cause may be carried; and in case they fail to pay such costs and charges as may be awarded against them as aforesaid, then they severally consent that execution may issue forth against them, their heirs, executors, and administrators, and against their respective goods, chattels, lands, and tenements, for the costs aforesaid, not exceeding, however, in amount the said sum of two hundred and fifty dollars.

And upon motion of John Drysdale and Benjamin A. Putman, esqrs., proctors for said claimants, the said cause is continued to the 21st day of May next for a hearing thereof.

Appraisers appointed.

And afterwards, to wit, on the same eleventh day of March, in the aforesaid year one thousand eight hundred and forty-four, before the court aforesaid, at the court house aforesaid, the following further entry of record was made in said cause, to wit:

THE UNITED STATES
vs.
Sixteen boxes of sugar, &c., &c. } Libel.

The said claimants, B. E. Can & Co., having filed their claim and answer, claiming the said goods so libelled, and now praying that they may be delivered to them, the said claimants, on giving security for their value, and the parties libellant and claimant not being able to

agree on the valuation of the said goods, the following persons being suggested and named as appraisers by said parties, namely, George Center, George Cott, and George W. Cole; said persons are accordingly hereby appointed such appraisers, and they thereupon appeared, and were duly sworn as such appraisers.

Appraiser's report.

And afterwards, to wit, on the 12th day of the same month of March, in the year aforesaid, the said appraisers came and brought into court their appraisement, in the words and figures, to wit:

Appraisement of goods in the public store at the city of St. Augustine, belonging to Messrs. B. E. Can & Co., of said city, seized by Mr. A. W. Walker, collector of the port, for an alleged infringement of the revenue laws, and now in possession of the United States marshal for this district, viz:

15 boxes brown Havana sugar, 6,233, 6 c. - -	$373 98
1 box white Havana sugar, 418, a 8 c. - -	33 44
2 bbls. ale, 16 doz. pints, $1 75 doz. - - -	22 00
1 bag pepper, 103, 5 c. - - - -	5 15
10 boxes cordial, a $3 50 - - - -	35 00
5 cases cordial, a $6 00 - - - -	30 00
10 mats, Cassia, 37½ - - - - -	3 75
6 boxes pint Champagne wine, $8 50 - - -	51 00
6 boxes quart Champagne wine, $7 50 - -	45 00
24 quarter boxes of raisins, 62½ - - - -	15 00
30 half boxes of raisins, $1 12½ - - -	33 75
5 quarter chests tea, 65 lbs., 50 c. - - -	32 50
2 boxes of citrons, a $2 50 - - - -	5 00
1 frail almonds, 55 lb., a 12½ - - - -	6 87
3 drums figs, 42, a 10 c. - - - -	4 20
2 boxes lemons, $2 00 - - - -	4 00
2 casks, 12 doz., porter, $2 50 doz. - - -	30 00
25 sacks salt, $1 37 - - - - -	34 37
1 half pipe Champagne brandy, 72 gals., $1 50 -	108 00
1 half pipe Cogniac brandy, 80 gals., $1 75 - -	140 00
1 pipe Swan gin, 123 gal., $1 05 - - -	129 15
10 bags of coffee, 1,511 lbs., 7 c. - - -	105 77
1 cask, 8 doz., Am. porter, $1 25 - - -	10 00
4 casks of pint porter, 32 doz., $1 75 - - -	56 00
	$1,313 93

St. Augustine, March 11th, 1844.

GEORGE CENTRE,
GEORGE COTT,
GEORGE W. COLE, JR.,
Appraisers appointed by the court.

Objections to appraisement.

And afterwards, to wit, on the same twelfth day of March, in the aforesaid year, came Thomas Douglas, esquire, United States attorney, and filed his objections to the appraisement made by the said appraisers; which said objections are in the words and figures following, to wit:

District of East Florida—In superior court:

THE UNITED STATES OF AMERICA
vs.
Sixteen Boxes of Havana Sugar.
B. E. Can & Co., claimants. } Libel.

Appraisement.

The United States, by Thomas Douglass, esquire, their attorney, &c., except to the appraisement returned and filed in this cause: First, because the articles appraised were all appraised below the cost thereof at New York, the place of purchase and shipment, although they have not deteriorated since they left that city, and the prices of such articles generally have advanced since they left that place, and are still advancing; and the addition of freight, insurance, commissions, and a fair mercantile profit on such goods here, ought to have been added to the price thereof. Second, because the said articles are appraised below their actual cash value in New York, the place of purchase and shipment, and about forty per cent. below their actual cash value in this city. Third, because the said Havana sugar, which cost seven cents per pound in New York, and is worth nine cents per pound in St. Augustine, was valued at six cents only per pound, and French brandy, upon which the duty is one dollar per gallon, was valued at only one dollar and fifty cents per gallon. Fourth, because the articles appraised were all appraised much below their real value here.

THOMAS DOUGLASS,
U. S. Att'y, &c.

Order for claimants to produce invoices.

And afterwards, to wit, on the thirteenth day of the same month of March, in the aforesaid year, 1844, before the court aforesaid, the following entry of record was made in said cause, to wit:

THE UNITED STATES
vs.
Sixteen Boxes of Sugar, &c.

On motion of Thomas Douglass, esq., attorney of the United States, it is ordered, that B. E. Can & Co. immediately bring into court all the invoices of the following goods, brought to the port of St. Augustine, in the schooner Hope W. Gaudy, and seized by the collector of the port of St. Augustine, on the 27th day of January, 1844: On sixteen boxes of Havana sugar, twelve baskets of Champagne wine, twenty-five sacks of Liverpool salt, five cases and five baskets of Olive oil,

ten boxes of French cordial, seven casks of London porter, two casks of Scotch ale, two half pipes of French brandy, one pipe of Holland gin, thirty half boxes and twenty-four quarter boxes of raisins, ten bags of cassia, two boxes of citrons, five chests of tea, one frail or basket of almonds, three drums of figs, two boxes of lemons, and ten bags of coffee; and that a copy of this *rule* be served forthwith on B. E. Can & Co.

A copy of which said rule was duly delivered to the marshal, and served by him upon same day.

Order to increase appraisement.

And afterwards, to wit, on the same thirteenth day of March last aforesaid, in the year 1844, aforesaid, before the court aforesaid, the following further entry of *record* was made in said cause in the words following, to wit:

THE UNITED STATES
vs.
SIXTEEN BOXES OF SUGAR, &c. } Libel.

On reading and filing the appraisement returned into court by the appraisers appointed to appraise the value of the goods seized, and on reading and filing the exceptions of the counsel for the United States to said appraisement, and testimony and exhibits being offered, and heard on the part of the said United States in support of said exceptions, it is ordered that an additional sum be added to said appraisement, to make the amount thereof fifteen hundred dollars; and that the said claimants give bond for the sum of fifteen hundred dollars, that being the sum for which said appraisement ought to have been made; or, if they shall so choose, new appraisers may be appointed.

Bond of claimants for value of goods.

And afterwards, to wit, on the fourteenth day of March, in the aforesaid year 1844, the said claimants brought and filed in said court their certain bond or obligation for the amount of the value of the said goods; which said bond or obligation is in the words and figures following, to wit:

Territory of Florida, district of
East Florida, in admiralty:

Whereas sixteen boxes of sugar, twelve baskets of Champagne wine, twenty-five sacks of Liverpool salt, five cases and five baskets of olive oil; ten boxes of French cordial; seven casks of London porter; two casks of Scotch ale; two half pipes of French brandy; one pipe Holland gin; thirty half boxes, and twenty-four quarter boxes, of raisins; ten bags of cassia; two boxes of citrons; five chests of tea; one frail or basket of almonds; three drums of figs; two boxes of lemons, and ten bags of coffee, have been attached and libelled in the superior court for the district of East Florida, as being forfeited to the United States for a

violation of the revenue laws and proceedings, are now in said court to obtain condemnation of said goods; and whereas B. E. Can and John Peck have appeared as claimants of said goods—

Now know all men by these presents, that we, Borroughs E. Can, for himself and John Peck, composing the firm of B. E. Can & Co., John J. Hedrick, and William A. Foward, their sureties, do stipulate, agree, and bind ourselves to the United States of America, in the sum of *three* thousand dollars, to be paid to the said United States; for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly, by these presents. Sealed with our seals, and dated the fourteenth day of March, in the year of our Lord one thousand eight hundred and forty-four.

Whereas a libel hath been filed in the superior court of the United States, for the district of East Florida, on the 29th day of January, in the year of our Lord one thousand eight hundred and forty-four, by Thomas Douglass, esquire, attorney of the United States for the said district, on behalf of the said United States, against the said before recited goods, for reasons and causes in the said libel mentioned; and whereas the said goods are now in the custody of the marshal of said district, under the process issued in pursuance of the prayer of the said libel; and whereas the value of the said goods, as appears by the appraisement now on file in this court, and is admitted to be the sum of fifteen hundred dollars.

Now, therefore, the condition of this obligation is such, that in case the said before recited goods shall, by the sentence, decree, or judgment of the said court, be condemned as forfeited; and if the said B. E. Can and John Peck, composing firm of B. E. Can & Co., and John S. Hedrick, and William A. Foward, or either of them, shall thereupon pay into the said court the said sum of fifteen hundred dollars, together with the costs ensuing in consequence hereof, then this obligation to be void, otherwise to remain in full force and virtue.

BURROUGHS E. CAN,
For himself and JOHN PECK, [L. S.]
JOHN HEDRICK, [L. S.]
WILLIAM A. FOWARD. [L. S.]

Sealed and delivered, in presence of—
GEO. R. FAIRBANKS,
W. M. JAES.

Acknowledged before me, in open court, this 14th day of March, 1844.

GEORGE R. FAIRBANKS, *Clerk*.

THE UNITED STATES
vs.
SIXTEEN BOXES OF SUGAR, &c.

On filing the within stipulation, let an order issue, directing the marshal to deliver the said goods attached in this case to the claimants, B. E. Can & Co.

J. H. BRONSON, *Judge*.

Order to the marshal to deliver the goods.

And afterwards, to wit, on the same fourteenth day of March, in the year aforesaid, in the court aforesaid, the following entry of record was made in said cause, to wit:

THE UNITED STATES
vs.
SIXTEEN BOXES OF SUGAR, &c.

On filing the bond and stipulation of B. E. Can and John Peck, composing the firm of B. E. Can & Co., and John J. Hedrick and William A. Foward, their sureties, it is ordered that the marshal deliver to the said claimants, the said B. E. Can & Co., the goods so libelled and attached, to wit, sixteen boxes of Havana sugar; twelve baskets of Champagne wine; twenty-five sacks of Liverpool salt; five cases and five baskets of olive oil; ten boxes of French cordial; seven casks of London porter; two casks of Scotch ale; two half pipes of French brandy; one pipe Holland gin; thirty half boxes and twenty-four quarter boxes of raisins; ten bags of cassia; two boxes of citrons; five chests of tea; one frail or basket of almonds; three drums of figs; two boxes of lemons and ten bags of coffee, seized and attached by said marshal, under a libel filed on the part of the United States against the said goods.

Amended answer of claimants.

And afterwards, to wit, on the twenty-first day of March, in the year of our Lord one thousand eight hundred and forty-four, came the said claimants by Benjamin A. Putman, esq., their proctor, came and filed in the clerk's office aforesaid, their amended claim and answer, in the words and figures following, to wit:

Superior court, east. dist. Florida, sitting in admiralty.

THE UNITED STATES OF AMERICA
vs.
Sixteen boxes of Havana sugar; twelve baskets of Champagne wine; twenty-five sacks of Liverpool salt; five cases and five baskets of olive oil; ten boxes of French cordial; seven casks of London porter; two casks of Scotch ale; two half pipes of French brandy; one pipe of Holland gin; thirty half boxes and twenty-four quarter boxes of raisins; ten bags of cassia; two boxes of citrons; five chests of tea; one frail or basket of almonds; three drums of figs; two boxes of lemons, and ten bags of coffee.

And now comes here Borroughs E. Can, of the city of St. Augustine, in the Territory of Florida aforesaid, by his proctor, Benjamin A. Putman, and for himself and in behalf of John Peck, of the city and State of New York; which said Burroughs E. Can, and John Peck, constituted the firm of B. E. Can & Co., at the city of St. Au-

gustine bforesaid, and claims the said goods, wares, and merchandises, in said libel enumerated, were, on or about the time therein stated, seized by the said Augustus W. Walker, as collector of the port of St. Augustine aforesaid, and taken into his custody; and that the said goods, wares, and merchandise, or the most part thereof, to wit, the said sugar, Champagne wine, salt, olive oil, French cordial, Scotch ale, two half pipes of French brandy, one pipe of Holland gin, raisins, cassia, citron, tea, almonds, figs, lemons, and coffee, are of foreign growth and manufacture, and not sea stores; that said goods, wares, and merchandise were purchased in the city of New York by the said John Peck, and were shipped, by his direction, from the port of New York aforesaid, to the port of St. Augustine aforesaid, for the purpose of being sold there of said claimants; and the said John Peck, where they are engaged in and carrying on business, under the said firm of B. E. Can & Co.; and that the said goods, wares, and merchandise, were brought from the said port of New York to the said port of St. Augustine, in the said vessel or schooner called the Hope W. Gaudy; which said vessel or schooner had been before that time, and then and there was, as said claimant is informed and believes, duly enrolled and licensed to carry on the coasting trade as in said libel alleged; that said goods, wares, and merchandise were in fact consigned to the said B. E. Can & Co., at St. Augustine; and that if any such name as "B. E. Cantello" appears on the manifest of the cargo of said vessel, it was intended for B. E. Can & Co.; and that it is an error and mistake committed by the person who filled up said manifest in the hurry of business by reading B. E. Can & Co., "B. E. Cantello." But said claimant does not admit that said goods, wares, and merchandise were not specified or certified in the said manifest of said cargo of said vessel; but, on the contrary, avers his belief that the same were so specified and certified in said manifest of the cargo of the said vessel as is required by act of Congress of the said United States in such cases made and provided; and said claimant prays that said manifest may be exhibited to this court for its inspection thereof; which said claimant avers is a sufficient answer to the first count of said libel.

And said claimant, for further answer to said libel, and to the second count thereof, admits that the said goods, wares, and merchandise, in said second count enumerated, were, on or about the time in said count alleged, seized and taken into custody by the said Augustus W. Walker, as collector aforesaid of the United States for the port of St. Augustine aforesaid; but he avers that they are the same identical goods, wares, and merchandise, and no other, that are specified and enumerated in the first count of said libel; that they were purchased in the city of New York aforesaid, by the said John Peck, for the St. Augustine market, and were shipped by the direction of said John Peck at the port of New York aforesaid, on board the said vessel or schooner called the Hope W. Gaudy, for the purpose of being transported to the port of St. Augustine aforesaid, there to be sold in the store of B. E. Can & Co., composed of the said John Peck and the said Borroughs E.

Can; and that said goods were, on or about the time in said second count of said libel alleged, brought in said vessel or schooner called the Hope W. Gaudy, from the port of New York, aforesaid, to the said port of St. Augustine; that said goods, wares, and merchandises, or the most part thereof, are, as this claimant believes, of foreign growth and manufacture; and that said vessel or schooner is of the tonnage, that is to say, one hundred and forty tons, or thereabouts, as said claimant is informed, and as is in said libel alleged; but said claimant does not admit that said vessel or schooner, called the Hope W. Gaudy, was, as in said second count of said libel alleged, trading between district and district; that is to say, between the district of New York aforesaid, and the said district of St. Augustine, without being enrolled and licensed according to law; on the contrary, the said claimant avers his belief, and he is so informed, that said vessel or schooner was enrolled and licensed for carrying on the coasting trade according to law and the act of Congress in such case made and provided, before she left the said port of New York for the port of St. Augustine aforesaid; and that said enrolment and license were issued to her by the collector of Great Egg harbor, in the State of New Jersey, as will more fully appear on reference to said enrolment and license now in the hands of said Augustus W. Walker, collector as aforesaid; and which said claimant prays he be required to exhibit, and produce to this court on the trial of this cause.

Wherefore the said Borroughs E. Can doth, on behalf of himself and the said John Peck, claim the said goods, wares, and merchandise, in said first second counts of said libel mentioned and enumerated as the property of them, the said B. E. Can and the said John Peck, and prays that the same may be restored to them; and that they may have their costs in this suit sustained, and their damages by the seizure and detention of said goods, wares, and merchandise, so unlawfully made, to be decreed to him, &c.

BURROUGHS E. CAN.

Sworn to and subscribed before me, this 21st day of March, A. D. 1844.

JESSE A. BUSH, *Deputy cl'k sup. court.*

Replication to answer.

And afterwards, to wit, on the thirteenth day of March, in the year of our Lord one thousand eight hundred and forty-four, came Thomas Douglas, esquire, attorney of the United States for the district of East Florida, and filed herein his replication to the answers of said claimants, B. E. Can & Co., in the words and figures following, to wit:

District of East Florida, superior court:

THE UNITED STATES OF AMERICA, vs. Sixteen boxes of Havana sugar, &c. } In admiralty.

And the attorney of the United States, by way of replication to said plea and answer of the said Borroughs E. Can, doth aver that the

matters in the said plea and answer are not sufficient, in law, to bar the forfeiture aforesaid, and that the matters contained in his said libel of information are true in fact, and sufficient in law to maintain a decree of forfeiture according to the prayer thereof; of all which matters he is ready to make due proof as the court shall direct.

THOMAS DOUGLAS,
Attorney of the United States for the district of East Florida.

Hearing of the cause.

And afterwards, to wit, on the twenty-second day of May, in the year of our Lord one thousand eight hundred and forty-four, unto which day the said cause had come, by regular adjournment and continuance before the court aforesaid, sitting as aforesaid, at the court-house aforesaid, the following entry of record was made in said cause, in the words and figures following, to wit:

THE UNITED STATES,
vs.
Sixteen boxes of sugar, twelve baskets of Champagne wine, &c. } In admiralty.

And now, at this day, comes Thomas Douglas, esquire, proctor for the United States in this behalf, and also comes the said claimants, Borroughs E. Can and John Peck, by Benjamin A. Putman and John Drysdale, esqs., their proctors. And thereupon the said proctor for the United States comes and says, he will not further insist upon any other count in said libel than the said first count in said libel, and they withdraw all of said counts except the said first count. And thereupon the libel of the said libellants, to wit, the said United States, and the claim and answer of the said Borroughs E. Can and John Peck being read, the proctor for the United States read and placed in evidence the manifest of the schooner Hope W. Gaudy, which was received in evidence without objection. And the evidence in said matter having been now fully considered, and heard, and submitted, and the agreement of the same having been fully heard, as well on the part of the said claimants as on that of the United States, the same was submitted to the court for its decision and decree thereon. And the court, not being sufficiently advised what decree to make therein, took time to consider of the same to another day.

Evidence offered and read in said cause, on the part of the United States, numbered one.

No. 1.

Offered and read in evidence, on the part of the United States, without objection on the part of claimants.

Manifest of the schooner Hope W. Gaudy, Maurice Gaudy, master, burthen one hundred and forty tons, bound from New York to St. Augustine, Florida, with oath and permit attached to the said manifest.

Manifest of the cargo on board the schooner Hope W. Gaudy, Gaudy, master, burthen one hundred and forty tons, bound from New York for St. Augustine, Fla., New York, Jan'y 13th, 1844.

Marks.	No.	Packages and contents.	Shippers.	Residence.	Consignees.	Residence.
B. E. C. & Co.	1	Eighteen hundred and fourteen packages mdze. -	John Peck -	New York -	B. E. Cantello -	St. Augustine.
J. M. H. -	2	Three packages mdze. -	Do -	Do -	J. M. Hernandez	Do.
C. Burt & Co.	3	Eleven do do -	Do -	Do -	G. Burt & Co. -	Do.
S. S. P. -	4	Twenty-three do -	Do -	Do -	S. S. Peck -	Do.

MAURICE GAUDY.

Oath and permit attached thereto.

L. / D. C. I, Maurice Gaudy, master of the schooner Hope W. Gaudy, do solemnly swear to the truth of the annexed manifest; and that, to the best of my knowledge and belief, all the goods, wares, and merchandise, of foreign growth or manufacture therein contained; were legally imported, and the duties thereon paid or secured; so help me God.

MAURICE GAUDY.

Sworn to this 13th day of , 1844.

G. W. DAVIS, *Dy. Col.*

District of New York, port of New York:

M. Gaudy, master of the schr. Hope W. Gaudy, of Cape May, having sworn, as the law directs, to the annexed manifest, consisting of four articles of entry, and delivered duplicate thereof, permission is hereby granted to the said schooner to proceed to the port of St. Augustine, in the State of Fla.

Given under our hands, at New York, this 13th day of Jan'y, 1844.

D. G. W. DAVIS, *Dy. Collector*,
W. D. K. J. DAVENPORT, *D. Naval Officer*.

Indorsed by collector at St. Augustine. No. 3 A, inward, schr. Hope W. Gaudy, of Cape May, Maurice Gaudy, master, $140\frac{7}{95}$ tons, from New York, entered Jan'y 25th, 1844.

Opinion and decision of court.

And afterwards, to wit, on the twenty-third day of May, in the year of our Lord one thousand eight hundred and forty-four, at the court-house aforesaid, the following opinion and decision was pronounced in said cause, to wit:

District of East Florida, in superior court:

THE UNITED STATES, vs. Sixteen Boxes of sugar, Twelve baskets of Champagne wine, &c. } In admiralty.

Opinion and decision.

The merchandise in question in this cause having been seized by the collector of St. Augustine, was libelled, on behalf of the United States, and a forfeiture thereof is claimed for an alleged violation of the 17th section of the act of 18th February, 1793, concerning the licensing and enrolling of ships and vessels for the coasting trade and fisheries.

The goods in question being goods of foreign growth or manufacture, were brought to the port of St. Augustine, in the schooner Hope W. Gaudy, on the twenty-fifth day of January last, from the city of New York. The schooner was regularly chartered from the port of New York, for this port, on the thirteenth of January, and, on her arrival at

this port, St. Augustine, the master reported his vessel at the custom-house, and delivered his manifest within 24 hours after his arrival; and the only question in the case is, whether the manifest is made out and certified, as required by the sixteenth and seventeenth sections of the act aforesaid; or whether, in consequence of the manifest not being made out or certified, as is required by those sections, the goods in question are forfeited.

The sixteenth section requires the master, before his departure from the port from whence he sails, in such cases, to make out and deliver to the collector duplicate manifests of the whole cargo; and if he has any goods of foreign growth or manufacture on board, (other than sea stores,) "he shall specify, in such manifest, the marks and numbers of every cask, bag, box, chest, or package, containing the same, with the name and place of residence of every shipper and consignee, of such goods, and the quantity shipped by and to each," to the truth of which he "shall swear or affirm," and he shall also swear or affirm, before the collector, that, to the best of his knowledge and belief, such goods, wares, merchandise, were legally imported, and the duties thereon paid or secured; upon the performance of which, and not before, the collector shall certify the same on the manifest, and return one of them to the master, with a permit to him to proceed on his voyage.

The 17th section provides that, within 24 hours after his arrival at the port of destination, and before unlading, the master shall deliver the manifest *certified by the collector of the port from whence he last sailed*, and make oath, &c.; if he fail to deliver his manifest within the time prescribed, he shall forfeit one hundred dollars. "*And* the goods, wares, and merchandise, of foreign growth or manufacture, found on board, or landed from such ship or vessel," not being certified, as herein required, shall be forfeited.

There is no dispute in this case that the captain delivered his manifest, such as it was, within the time prescribed; but it is contended that the goods in question were not certified, as is required by the 17th section.

The manifest does not, it is true, specify the marks or numbers of the packages containing articles of foreign growth or manufacture, any more than those which contain domestic goods, but it does specify the marks of all the packages, viz, "B. E. C. & Co.," and that the whole number of packages is 1814; and I am by no means satisfied that this is not a reasonable compliance with the section, so far as it regards the specification; but waiving for the present that question, and without expressing any opinion on that point, it seems by the oath of the captain, taken before the deputy collector at New York, that all the goods contained in the manifest had been legally imported, and the duties thereon either paid or secured according to the best of his knowledge and belief. This oath is certified by the deputy collector of New York, and a permit is thereupon given to the vessel to proceed.

The goods then were "*certified* as *herein required*," in the 17th section. Those words upon which the forfeiture rests, evidently, to my mind, apply or refer to the certificate of the collector upon the manifest,

and not to the specification which is required of the captain; now there is no pretence that there were any greater number of packages than the eighteen hundred and fourteen mentioned in the manifest, and marked as therein described, or that the goods in question were not contained in some of those eighteen hundred and fourteen packages. The oath, as certified by the collector, goes to the whole of them, and shows that the duties had been paid on all the goods of foreign growth or manufacture, contained in any of those packages, and that they had been legally imported. They are certified, then, as required by the 17th section.

It is insisted particularly by the district attorney, that the specification was not complete by the captain; that he should have specified in the manifest the particular packages containing goods of foreign growth or manufacture, and no others; or if he specified the marks and numbers of the whole, then he should have distinguished between such as contained foreign goods and such as did not; and that the collector of New York had no power or authority to certify to the manifest, until such specification was complete, and that, therefore, his act was a nullity, and the certificate to be considered as of no force or validity; I cannot view it in that light; on the contrary, I think the oath and the certificate a substantial compliance with the act; it shows clearly, what was intended by the act should be shown, i. e., that the goods in the manifest had been legally imported, and the duties thereon paid, and the collector having seen fit to consider it sufficient, and to certify the manifest, it should, (in the absence of any fraudulent intent, or even mistake,) be held sufficient to avoid the forfeiture of the goods.

Again, it seems to me quite clear that it was the intention of the legislature, by the latter clause of the seventh section, to forfeit only those goods of foreign growth or manufacture, which might be found on board or landed from the vessel, which were not included in the manifest, or being included, were not certified as therein required; I have before remarked, that there is no pretence that the goods in question were not a part and parcel of the eighteen hundred and fourteen packages; the certificate covers the whole of those, and reaches every article of foreign growth or manufacture contained in them; how then can it be said that they are not certified as therein required?

The libel must be dismissed, and the goods restored to the claimant; let a decree be entered accordingly.

J. H. BRONSON, *Judge*.

May 23d, 1844.

Decree of dismissal.

And afterwards, to wit, on the same twenty-third day of May, in the aforesaid year, one thousand eight hundred and forty-four, at the court house aforesaid, before the court aforesaid, sitting for the hearing of causes in admiralty, the following decree was entered of record in said cause, in the words and figures following, to wit:

In admiralty.

THE UNITED STATES OF AMERICA,
vs.
Sixteen Boxes of Havana Sugar, Twelve Baskets of Champagne Wine, twenty-five sacks of Liverpool Salt, five cases and five baskets of Olive Oil, twelve boxes of French Cordial, seven casks of London Porter, two casks of Scotch Ale, two half pipes of French Brandy, one pipe Holland Gin, thirty half boxes and twenty-four quarter boxes of Raisins, ten bags of Cassia, two boxes of Citrons, five chests of Tea, one frail or basket of Almonds, three drums of Figs, two boxes of Lemons, and 10 bags of Coffee. } Libel.

And now again come this day the libellants aforesaid, by Thomas Douglas, esquire, their proctor, and also come the said claimants, Borroughs E. Can and John Peck, by their proctors aforesaid, Benjamin A. Putman and John Drysdale, esquires; and thereupon, the court having fully considered the same, doth, upon the said first count of said libel, (that being the only count presented to the court for its adjudication, the libellants having waived the other counts,) doth decide and adjudge, that said libel be dismissed.

And it is further ordered, that a certificate of probable cause for instituting said proceedings, be furnished to the collector of the district of St. Augustine.

Appeal by United States.

And afterwards, to wit, upon the same twenty-third day of May, in the year 1844, aforesaid, the following entry of record was made in said cause, to wit:

THE UNITED STATES,
vs.
Sixteen boxes of Havana Sugar, twelve baskets of Champagne, &c.

Libel for violation of revenue laws.

And now, on this day, came as well the proctor for said libellants, to wit, Thomas Douglas, esq., U. States attorney, as also the proctors for said claimants, Borroughs E. Can and John Peck, to wit, the aforesaid Benjamin A. Putman and John Drysdale, esquires; and thereupon the said Thomas Douglas, esq., proctor for the said United States, prays this court that an appeal be granted in this case, on behalf of the said United States, from the decree of this court dismissing the libel in this cause, to the court of appeals of this territory; and that a citation and notice of appeal be forthwith issued by the clerk of this court to the appellees, and that the same be served, by the marshal of this district, upon the proctors for the said claimants, B. E. Can and John Peck,

and returned to this court within thirty days from the issuing thereof, which is ordered accordingly.

Citation of appeal.

And afterwards, to wit, on the ninth day of August, in the aforesaid year of our Lord one thousand eight hundred and forty-four, in pursuance of the foregoing order, a citation and notice of appeal were duly issued from the office of the clerk of said court, and delivered to the marshal of the said district of East Florida; which said citation was in the words and figures following, to wit:

The President of the United States, to Borroughs E. Can and John Peck, or to their agents, attorneys, or solicitors, greeting:

You are hereby cited and admonished, that an appeal has been taken on the part of the United States, from the decree of the superior court for the district of East Florida to the court of appeals of the said Territory, in a certain cause in admiralty, wherein you, the said Borroughs E. Can and John Peck, were claimants of sixteen boxes of Havana sugar, twelve baskets of Champagne wine, &c., libelled in said ——— court, and the said United States were libellants of said 16 boxes of sugar, &c.; and that the record in said cause will be forwarded to the said court of appeals, to be placed on the docket at the next term thereof, to be holden on the first Monday of January next.

Teste, the honorable Isaac H. Bronson, judge of our said superior court, at the court-house in the city of St. Augustine, this ninth day of August, 1844.

GEO. R. FAIRBANKS, *Clerk.*

Marshal's return on same.

Received August 9th, 1844, and served August 15th, 1844, by delivering a copy to Edmund Wallen, clerk in the store of B. E. Can & Co.

JOHN BEARD, *Marshal.*

Superior court, district of East Florida:

I, George R. Fairbanks, clerk of the said court, do hereby certify, that the foregoing forty-nine pages contain a full, true, and complete transcript of the record and proceedings had in the case therein named.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court this fourteenth day of September, A. D. [SEAL.] 1844, and of the independence of the United States of America the 68th year.

GEORGE R. FAIRBANKS, *Clerk.*

And at another day, to wit, at a court of appeals for the Territory of Florida, continued and held at the court-house in the city of Tallahassee, on Friday, the 31st day of January, 1845.

Present, Hon. J. H. Bronson, S. W. Carmack, S. J. Douglas.